

VIDEOTAPE DEPOSITION OF ANDREW D. SPETH 1/17/2012

<p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN</p> <hr/> <p>ALVIN BALDUS, CINDY BARBERA, CARLENE BECHEN, RONALD BIENDSEIL, RON BOONE, VERA BOONE, ELVIRA BUMPUS, EVANJELINA CLEEREMAN, SHEILA COCHRAN, LESLIE W. DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH, CLARENCE JOHNSON, RICHARD KRESBACH, RICHARD LANGE, GLADYS MANZANET, ROCHELLE MOORE, AMY RISSEUW, JUDY ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP, and TRAVIS THYSSEN,</p> <p style="text-align: center;">Plaintiffs,</p> <p>TAMMY BALDWIN, GWENDOLYNNE MOORE, and RONALD KIND,</p> <p style="text-align: center;">Intervenor-Plaintiffs,</p> <p style="text-align: center;">v. File No. 11-CV-562</p> <p>Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE,</p> <hr/> <p style="text-align: center;">[Caption Continued]</p> <p style="text-align: center;">VIDEOTAPE DEPOSITION</p> <p style="text-align: center;">ANDREW D. SPETH</p> <p style="text-align: center;">Milwaukee, Wisconsin January 17, 2012</p> <p style="text-align: center;">Peggy S. Christensen, RPR, CRR, CCP Registered Professional Reporter</p>	<p style="text-align: center;"><u>I N D E X</u></p> <table style="width: 100%;"> <tr> <th style="text-align: left;">2 <u>Witness</u></th><th style="text-align: right;">Pages</th></tr> <tr> <td>3 ANDREW D. SPETH</td><td></td></tr> <tr> <td>4 Examination by Mr. Brown</td><td style="text-align: right;">6</td></tr> <tr> <td>5 Examination by Mr. Hassett</td><td style="text-align: right;">134</td></tr> <tr> <td>6 Examination by Mr. Shriner</td><td style="text-align: right;">151</td></tr> <tr> <td>7</td><td></td></tr> <tr> <td style="text-align: center;">8 <u>E X H I B I T S</u></td><td></td></tr> <tr> <td>9 No. <u>Description</u></td><td style="text-align: right;"><u>Identified</u></td></tr> <tr> <td>10 42 Subpoena</td><td style="text-align: right;">9</td></tr> <tr> <td>11 43 Materials produced by Mr. Speth</td><td style="text-align: right;">16</td></tr> <tr> <td>12 44 Blown-up Act 44 redistricting map</td><td style="text-align: right;">58/60</td></tr> <tr> <td>13 45 Nordheim report</td><td style="text-align: right;">106</td></tr> <tr> <td>14 46 Newspaper articles</td><td style="text-align: right;">130</td></tr> <tr> <td>15 47 Affidavit of David R. Obey</td><td style="text-align: right;">134</td></tr> <tr> <td>16</td><td></td></tr> <tr> <td>17 (The original exhibits were attached to the original</td><td></td></tr> <tr> <td>18 transcript, and copies of Exhibits 42, 43, 45, 46 and</td><td></td></tr> <tr> <td>19 47 were provided to counsel. A copy of Exhibit 44</td><td></td></tr> <tr> <td>20 was provided to Attorney Brown and Attorney Kelly.)</td><td></td></tr> <tr> <td>21</td><td></td></tr> <tr> <td>22</td><td></td></tr> <tr> <td>23</td><td></td></tr> <tr> <td>24</td><td></td></tr> <tr> <td>25 (The original deposition transcript was filed with</td><td></td></tr> <tr> <td></td><td style="text-align: right;">Attorney Dustin B. Brown)</td></tr> <tr> <td></td><td style="text-align: center;">3</td></tr> </table>	2 <u>Witness</u>	Pages	3 ANDREW D. SPETH		4 Examination by Mr. Brown	6	5 Examination by Mr. Hassett	134	6 Examination by Mr. Shriner	151	7		8 <u>E X H I B I T S</u>		9 No. <u>Description</u>	<u>Identified</u>	10 42 Subpoena	9	11 43 Materials produced by Mr. Speth	16	12 44 Blown-up Act 44 redistricting map	58/60	13 45 Nordheim report	106	14 46 Newspaper articles	130	15 47 Affidavit of David R. Obey	134	16		17 (The original exhibits were attached to the original		18 transcript, and copies of Exhibits 42, 43, 45, 46 and		19 47 were provided to counsel. A copy of Exhibit 44		20 was provided to Attorney Brown and Attorney Kelly.)		21		22		23		24		25 (The original deposition transcript was filed with			Attorney Dustin B. Brown)		3
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<p>and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,</p> <p style="text-align: center;">Defendants,</p> <p>F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY,</p> <p style="text-align: center;">Intervenor-Defendants.</p> <hr/> <p>VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v. Case No. 11-CV-1011 JPS-DPW-RMD</p> <p>Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,</p> <p style="text-align: center;">Defendants.</p> <hr/>	<p>1 VIDEOTAPE DEPOSITION of ANDREW D. SPETH,</p> <p>2 a witness of lawful age, taken on behalf of the</p> <p>3 Plaintiffs, wherein Alvin Baldus, et al., are</p> <p>4 Plaintiffs, and Members of the Wisconsin Government</p> <p>5 Accountability Board, et al., are Defendants, pending</p> <p>6 in the United States District Court for the</p> <p>7 Eastern District of Wisconsin, pursuant to subpoena,</p> <p>8 before Peggy S. Christensen, a Registered</p> <p>9 Professional Reporter and Notary Public in and for</p> <p>10 the State of Wisconsin, at the offices of</p> <p>11 Godfrey & Kahn, S.C., Attorneys at Law, 780 North</p> <p>12 Water Street, in the City of Milwaukee, County of</p> <p>13 Milwaukee, and State of Wisconsin, on the 17th day of</p> <p>14 January 2012, commencing at 10:34 in the forenoon.</p> <p>15</p> <p>16</p> <p>17 <u>A P P E A R A N C E S</u></p> <p>18</p> <p>19 DUSTIN B. BROWN, Attorney,</p> <p>20 for GODFREY & KAHN, S.C., Attorneys at Law,</p> <p>21 One East Main Street, Suite 500, Madison,</p> <p>22 Wisconsin 53703, appearing on behalf of</p> <p>23 Plaintiffs Alvin Baldus, et al.</p> <p>24</p> <p>25 JACQUELINE BOYNTON, Attorney at Law,</p> <p>Caro Tower, 2266 North Prospect Avenue,</p> <p>Suite 505, Milwaukee, Wisconsin 53202,</p> <p>appearing on behalf of Plaintiffs</p> <p>Voces De La Frontera, Inc., et al.</p> <p style="text-align: center;">4</p>																																																				

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1 A P P E A R A N C E S (Continued)

2

3 P. SCOTT HASSETT and JAMES A. OLSON, Attorneys,

4 for LAWTON & CATES, S.C., Attorneys at Law,

5 Ten East Doty Street, Suite 400, Madison,

6 Wisconsin 53703, appearing on behalf of the

7 Intervenor-Plaintiffs.

8

9 MARIA S. LAZAR, Assistant Attorney General,

10 for STATE OF WISCONSIN DEPARTMENT OF JUSTICE,

11 17 West Main Street, Madison, Wisconsin 53703,

12 appearing on behalf of the Defendants.

13

14 DANIEL KELLY, Attorney,

15 for REINHART BOERNER VAN DEUREN S.C.,

16 Attorneys at Law, 1000 North Water Street,

17 Suite 2100, Milwaukee, Wisconsin 53202,

18 appearing on behalf of the Defendants.

19

20 THOMAS L. SHRINER, JR., Attorney,

21 for FOLEY & LARDNER, LLP, Attorneys at Law,

22 777 East Wisconsin Avenue, Milwaukee,

23 Wisconsin 53202, appearing on behalf of the

24 Intervenor-Defendants.

25

 Also present: Todd S. Campbell, CLVS
 Campbell Legal Video Company
 417 Heather Lane, Suite B
 Fredonia, WI 53021
 (262) 447-2199

5

1 ANDREW D. SPETH,

2 called as a witness, being first duly sworn,

3 testified on oath as follows:

4

5 EXAMINATION

6 By Mr. Brown:

7 Q Good morning, Mr. Speth.

8 A Good morning.

9 MR. BROWN: I believe that you

10 wanted to start with something.

11 MR. SHRINER: Yeah, I want to make

12 a statement about the production that we've

13 done. We have attempted to produce

14 everything requested in the subpoena, as well

15 as in the document production request that

16 you sent us last week. And delivered to your

17 office yesterday afternoon, everything out of

18 Mr. Speth's personal Hotmail account, which

19 is where he can tell you he maintained his

20 files on this matter, everything of a paper

21 variety, not very much; a disk containing

22 certain materials that were too bulky to

23 print off and were electronically maintained.

24 Mr. Speth, as he will tell you the

25 details but I want to let you know this, last

6

1 week in an effort to make sure that he had

2 everything, found that there were certain

3 e-mails that he had largely I think received

4 from other staffers for Republican

5 congressmen relating to this matter that had

6 come in on his congressional account. He

7 attempted to transfer that file to his

8 personal account, his Hotmail account, so

9 that he could send it to us, and in the

10 course of doing it deleted it, the whole

11 file.

12 He has, as he will tell you, been in

13 touch with technical support staff at the

14 House. They've assured him that they'll be

15 able to recover it and we will produce it,

16 but with the weekend and the holiday

17 yesterday and the way Washington likes

18 holidays in January, nothing got done.

19 So I suspect there isn't much there, but

20 we'll get you what there is when we have it.

21 Right?

22 THE WITNESS: Correct.

23 MR. BROWN: All right. Thank you

24 for that.

25 Q (By Mr. Brown) Mr. Speth, have you ever had your

7

1 deposition taken before?

2 A No.

3 Q Okay. So I'm just going to start off with a few

4 ground rules. As you can see, this is being

5 transcribed by a court reporter and there is

6 also -- it's also being videotaped.

7 Because of the court reporter, it's very

8 important that when you're answering a question

9 that you don't nod or shrug but rather you

10 actually articulate an answer instead. Say yes or

11 no.

12 We shouldn't talk over each other, so you

13 should allow me to finish questions and I will

14 allow you to finish your answers.

15 Your attorney may sometimes make an

16 objection, and when he does so, you can still

17 answer the question, unless your attorney

18 instructs you not to. And even then, I will ask

19 you whether or not you're going to follow your

20 attorney's advice not to answer.

21 We'll take periodic breaks, and you can

22 request a break at any time. That's basically it.

23 Do you have any questions?

24 A No.

25 Q Okay. Great. Are you here today pursuant to a

8

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1 subpoena?

2 A Yes.

3 MR. BROWN: I'd like to mark this

4 subpoena as Exhibit 42.

5 (Exhibit No. 42 marked for

6 identification)

7 MR. SHRINER: These are the

8 exhibits to look at.

9 Q Do you see that this is a subpoena for your

10 testimony today in a deposition?

11 A Yes.

12 Q Have you seen this document before?

13 A Yes.

14 Q When did you receive it?

15 A I received it by e-mail from Mr. Shriner.

16 Q Mr. Shriner is your counsel?

17 A Correct.

18 Q And he's here today representing you?

19 A Yes.

20 Q If you can turn to the last page of the exhibit,

21 at the top it says Exhibit A. Do you see that

22 this is a request that you produce six categories

23 of documents?

24 A Yes.

25 Q And you understand this subpoena instructed you to

9

1 produce these documents for this deposition?

2 A Correct.

3 Q And you understand that you were obligated to look

4 through all of your -- all of the materials in

5 your possession, custody or control that fall into

6 these categories of documents?

7 A Yes.

8 Q And have you done that?

9 A Yes.

10 Q Where did you look for documents?

11 A I looked for documents in my personal e-mail

12 account, my House account, my laptop that I used

13 for creating the maps. I looked on a memory stick

14 that I used to transfer documents from that

15 laptop. I looked in my office files in

16 Janesville. I looked in -- or I had other staff

17 look in my files in the Washington, D.C. office.

18 I looked in our storage files in our office in

19 Janesville, and I also looked at home for anything

20 I had taken from work home, and then in addition a

21 binder I had used during the map writing process

22 that had the instructions for how to use the

23 software.

24 Q And how did you determine what documents were

25 responsive to the subpoena?

10

1 A Anything that related to redistricting, whether it

2 was maps that I forwarded, documents I produced

3 regarding breakdowns of the maps, scheduling.

4 Q Were there any documents related to redistricting

5 that you concluded were not responsive to the

6 subpoena?

7 A No.

8 Q And were there any documents that you're

9 withholding on the basis of privilege?

10 A No.

11 MR. SHRINER: No. There was one

12 line you may have noticed in an e-mail,

13 Mr. Brown, that related to some legal advice

14 and we masked it. I think it's probably six

15 words long. That was it.

16 MR. BROWN: Okay.

17 Q So aside from that redaction --

18 A Correct.

19 Q -- there is nothing that you had withheld?

20 A Nothing we withheld.

21 Q Now, this subpoena only asks for documents that

22 are in your possession, custody or control;

23 correct?

24 A I believe that's the case.

25 MR. SHRINER: It's lines 3 and 4.

11

1 A Actual, yes.

2 Q And do you know if there are any documents that

3 are no longer in your possession, custody or

4 control that would have been responsive to this

5 subpoena?

6 A Not that I'm aware of.

7 Q Aside from those documents that Mr. Shriner --

8 A Correct.

9 Q -- described?

10 A The ones on the House account.

11 Q And otherwise there are no documents that no

12 longer exist that would have been responsive, for

13 example documents that had been deleted or

14 documents that you had given to somebody else and

15 therefore they are no longer in your possession?

16 A In my Hotmail account I only keep documents for

17 six months at a time.

18 Q And so do you actively delete documents from your

19 Hotmail account?

20 A Correct.

21 Q How frequently do you do that?

22 A Every other month.

23 Q And do you go into the account and just sort of

24 literally sort of click everything that's more

25 than six months old --

12

1 A Correct.
2 Q -- to delete it? And why do you do that?
3 A Because I don't want my mailbox to be over the
4 size limit.
5 Q And does that include e-mails that you've
6 received --
7 A Correct.
8 Q -- as well as e-mails that you send?
9 A Correct.
10 Q When you checked your Hotmail account in response
11 to this subpoena, how old was the oldest e-mail
12 that then existed in the account?
13 A I believe it was June 1st.
14 Q And you had mentioned that you have a laptop that
15 you used for creating maps?
16 A Correct.
17 Q Is that a laptop that you own or is it issued by
18 your employer?
19 A It was purchased by Ryan For Congress.
20 MR. SHRINER: That's his reelection
21 committee?
22 THE WITNESS: Correct.
23 Q And is that the only computer on which you did any
24 work related to redistricting?
25 A Yes.

13

1 Q Are there --
2 A Drawing the maps. There were some e-mails that I
3 did from other computers.
4 Q Okay. So this Hotmail account is something that
5 you're able to access from any computer?
6 A Correct.
7 Q What other computers did you use to access that
8 Hotmail account?
9 A My home computer and at work.
10 Q And are there any other computers that you used to
11 access that Hotmail account?
12 A No, just those three.
13 Q And you looked in those, both of those places for
14 documents --
15 A Correct.
16 Q -- responsive to the subpoena?
17 A Yes.
18 Q And there is a hard drive on that laptop?
19 A Yes.
20 Q And --
21 MR. SHRINER: It wouldn't be worth
22 much if there weren't.
23 MR. BROWN: True.
24 Q And you've saved documents on that hard drive?
25 A Yes.

14

1 Q Okay. And you've looked in that hard drive for
2 documents?
3 A Yes, I did.
4 Q And did you ever save documents to a system folder
5 so it wasn't directly on the hard drive?
6 A No. They were all on the -- That isn't a network
7 computer. It's a laptop.
8 Q And you also mentioned, was there a thumb drive on
9 which you saved files?
10 A Correct.
11 Q And you did search through that for responsive
12 documents?
13 A Yes, I did.
14 Q And what kind of paper documents did you have that
15 were responsive?
16 A I have a three-ring binder that included the
17 instructions on how to use the software that drew
18 the maps.
19 I had a copy of the old congressional map and
20 the new congressional map on which I identified
21 the county splits between the old and the new map.
22 I had a hard copy of a map that Erik Olson
23 forwarded to me, and I found a three-ring binder
24 that included the maps from the redistricting that
25 took place in 2001.

15

1 MR. BROWN: Okay. I have the
2 documents that you produced in response to
3 this subpoena, and I would like this to be
4 marked as Exhibit 43.
5 (Exhibit No. 43 marked for
6 identification)
7 Q And when these documents were produced, different
8 segments of the documents were separated by clips,
9 so we have inserted tabs to indicate where those
10 separations existed.
11 And if you could just look behind Tab A. Can
12 you explain what these documents are? It's a
13 series of e-mails, the top e-mail being from you
14 dated Friday, June 3rd, 2011.
15 A Yes. Erik Olson sent me the first message, and I
16 responded that I had received the maps that he had
17 sent following a meeting that we had had with
18 Representative Kind, Erik Olson and
19 Congressman Ryan and myself.
20 Q And can you explain who Erik Olson is?
21 A He's the chief of staff for Representative Kind.
22 Q Thank you. And can you just explain -- We're not
23 going to be looking at details of these documents
24 for the moment but the organization. These
25 documents had all been clipped together, so where

16

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1 did all of these documents come from? Did they
 2 all come from the same place?
 3 A Yes.
 4 Q And they came from?
 5 A My Hotmail account.
 6 Q Okay. And all of the Hotmail documents -- If you
 7 can just flip through, are all of the Hotmail
 8 documents that you produced reflected in the
 9 section that's labeled behind Tab A?
 10 MR. SHRINER: I should say, while
 11 he's looking at that, that in addition
 12 to that one minor deletion for privilege, as
 13 I had mentioned to you yesterday, Mr. Brown,
 14 we did take the liberty of masking in these
 15 documents, on the few places where they
 16 appeared, Congressman Ryan's personal e-mail
 17 address and the cell phone numbers of
 18 Mr. Speth and Mr. Olson, those, because it
 19 didn't seem to me to be relevant and I didn't
 20 want to get them into the internet world
 21 unnecessarily.
 22 A Yes, they're all here.
 23 Q Are there any other documents from your Hotmail
 24 account that you produced aside from those that
 25 appear behind Tab A?

17

1 A No, there are not.
 2 Q Now turning to Tab B in Exhibit 43, we have two
 3 maps. Can you explain what these are and where
 4 you found them?
 5 A These are the maps that were forwarded to me by
 6 Erik Olson.
 7 Q If we turn to Tab C, again there are two maps
 8 here. Can you explain what these maps are and
 9 where you had them?
 10 A Yes. These are the maps that show -- The first
 11 map that is not shaded is the previous
 12 congressional map and I handwrote on there where
 13 there is counties that are split, and the second
 14 map that's shaded is the map that was passed as
 15 Act 44, and that shows where there is counties
 16 that are split. I handwrote on there where county
 17 splits occurred.
 18 Q And where did you have these documents?
 19 A These were in a binder that included the
 20 instructions for how to use the software for
 21 drawing maps.
 22 Q So this was a binder that you had made?
 23 A Correct.
 24 MR. SHRINER: The binder he's
 25 referring to is the one with the software

18

1 instructions that I think --
 2 THE WITNESS: Tab D.
 3 MR. BROWN: Yes.
 4 MR. SHRINER: Tab C is where these
 5 were actually stuck in a pocket of the
 6 binder. Right?
 7 THE WITNESS: Right.
 8 MR. BROWN: Okay.
 9 MR. SHRINER: He had put them there
 10 when he was working.
 11 Q And Tab D, it looks like it's a manual. It
 12 says --
 13 A Correct.
 14 Q -- Maptitude for Redistricting Training Guide.
 15 Was this also in that binder?
 16 A Yes. That's what was in the three-ring binder,
 17 and then in the pocket is where I had the
 18 documents.
 19 Q And where did you get this training guide?
 20 A I got this training guide from the RNC, Republican
 21 National Committee.
 22 Q And when did you get that?
 23 A April.
 24 Q April of 2011?
 25 A Correct.

19

1 Q And who were you in contact with at the RNC?
 2 A Mike Wild.
 3 Q And what's his position?
 4 A He's a redistricting aide.
 5 Q And can you explain what this training guide tells
 6 you?
 7 A Sure. It's the instructions for how to use the
 8 software that I used to draw the maps. Basically
 9 a step-by-step software guide on how to use all of
 10 the different functions available in the software.
 11 Q And what's the name of the software?
 12 A Maptitude.
 13 Q And how did you obtain a copy of the Maptitude
 14 software?
 15 A I obtained that from Mike Wild.
 16 Q Had you ever used Maptitude before?
 17 A No.
 18 MR. SHRINER: That was why they
 19 sent him a manual.
 20 Q And finally turning to Tab E, the first page of
 21 Tab E says Redistricting Maps, Representative Paul
 22 Ryan. Can you explain what these documents are?
 23 A Yes. This is a three-ring binder that I found in
 24 our office in Janesville that was something
 25 Tom Schreiber, who was Congressman Sensenbrenner's

20

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1 chief of staff, produced and gave to Congressman
2 Ryan during the 2001 redistricting process.
3 Q So it had been given to Representative Ryan --
4 A Correct.
5 Q -- during the 2001 redistricting process?
6 A Correct.
7 Q So it dates back to that time, and it's been in
8 Representative Ryan's possession since then?
9 A It was in our office.
10 Q And did you rely on this in any way during the
11 redistricting process?
12 A No. I didn't find it until I was searching for
13 the documents that you requested.
14 Q So to your knowledge there wouldn't be any
15 documents more recent than 2001 --
16 A No.
17 Q -- in this binder? Again, we will be referring
18 back to these documents later. I just wanted to
19 establish what these documents were and where you
20 had found them.
21 When was the first time you learned about
22 this lawsuit?
23 A June or July.
24 Q Of 2011?
25 A Yes. Sorry.

21

1 Q And how did you find out about it?
2 A I believe Tom Schreiber told me.
3 Q And do you remember the context of that
4 conversation?
5 A No.
6 Q Do you remember what he told you during that
7 conversation?
8 A That there was a lawsuit filed and that it
9 included the State Legislature and also the
10 congressional map as well.
11 Q Had you anticipated that a lawsuit like that might
12 be filed?
13 A No.
14 Q And after you learned about the fact that the
15 lawsuit had been filed, how did you react? Did
16 you do anything based on that knowledge?
17 A I asked Tom what we needed to do next, and he said
18 we would contact someone from legal counsel.
19 Q And did you do that or did Tom do that?
20 A Tom I believe made the initial call.
21 Q And do you know who he called?
22 A I believe he called Mr. Shriner.
23 Q And what was the next involvement that you had
24 with the litigation?
25 A I believe it was when we had a conversation maybe

22

1 a week or two later about an engagement letter
2 that needed to get signed in order to actually
3 have counsel.
4 Q And, again, this conversation was with
5 Tom Schreiber?
6 A Correct. And I believe Mr. Shriner had sent him
7 the letter of engagement.
8 Q And do you remember what was said during that
9 conversation?
10 A That Mr. Sensenbrenner would be signing the
11 engagement letter.
12 Q And that engagement letter was, in fact, signed?
13 A Yes, to my understanding.
14 Q And then after that discussion about the
15 engagement letter, what was your next involvement
16 with the lawsuit?
17 A I talked to Mr. Shriner, had some e-mail exchanges
18 with him. His comment was that --
19 MR. SHRINER: You shouldn't tell
20 him what we talked about.
21 Q Okay. And when was the first time you found out
22 that you might be deposed in this lawsuit?
23 A Late December.
24 Q And how did you find out that you might be
25 deposed?

23

1 A By e-mail.
2 Q And who told you?
3 A Mr. Shriner.
4 Q And had you anticipated that you might be deposed?
5 A No.
6 Q And what were you told about the prospect of the
7 deposition?
8 MR. SHRINER: You know, since he
9 talked to me about it, I don't think you need
10 to hear about that.
11 Q Did you have any conversations with anybody else
12 about the prospect of being deposed?
13 A No.
14 Q And what preparation did you do for this
15 deposition?
16 A Once I got the subpoena, started gathering the
17 documents that were requested.
18 Q Did anyone assist you in gathering those
19 documents?
20 A No.
21 Q You had mentioned before that you had asked people
22 I believe in your office in D.C. to look in
23 certain places for documents?
24 A Oh, yes. Yes, I did ask people, because I'm based
25 in Janesville, so I hadn't been out to D.C.

24

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1 between the time I found out about the subpoena
2 and coming here.
3 Q Okay. So who in the D.C. office assisted you in
4 looking for documents?
5 A Sarah Peer.
6 Q And what's her position?
7 A She's our scheduler.
8 Q And what did you ask her to do?
9 A To see if I had anything in my desk related to the
10 redistricting process.
11 Q And did she find anything in the D.C. office?
12 A No.
13 Q And is there anybody else that you can recall that
14 assisted you in collecting documents?
15 A No.
16 Q Did you speak to anyone aside from Mr. Shriner in
17 preparation for the deposition?
18 A No.
19 Q But you did speak to Mr. Shriner in preparation
20 for the deposition, I would assume?
21 A I'd talked to Mr. Shriner and I'd talked to
22 Congressman Ryan.
23 Q And what did you talk to Congressman Ryan about?
24 What was the substance of that?
25 A The fact that I was going to be deposed and that I

25

1 was going to be meeting with Mr. Shriner to
2 prepare for it Friday of last week and yesterday.
3 Q And did the Congressman give you any instructions
4 related to the deposition?
5 A No. He just said follow what our attorneys tell
6 you to do.
7 Q Did you have any other discussions with the
8 Congressman or saying anything else to him about
9 the deposition?
10 A I just talked to him about the fact that I would
11 be turning over any of my e-mails and any
12 documents I had related to the case.
13 Q And what was his response to learning that?
14 A We don't have anything to hide.
15 Q Okay. What's your current position for the
16 Congressman?
17 A I'm his chief of staff.
18 Q And how long have you had that position?
19 A For the last 12 -- just over 12 years.
20 Q And can you describe your responsibilities as
21 chief of staff for the Congressman to the extent
22 that it's possible?
23 A How much time do you have? Sorry to interrupt. I
24 oversee the staff, make all personnel decisions
25 regarding hiring, firing, oversee the work

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1 products that are produced that Congressman Ryan
2 reviews, oversee scheduling matters related to the
3 Congressman's schedule, I handle the franked mail
4 program, information we send out by mail, edit
5 letters that are produced in the office, edit
6 press releases that are produced in the office.
7 Q How large is the staff that you supervise?
8 A We have 18 personnel, including myself.
9 MR. SHRINER: Were you finished
10 with your answer of the things you do?
11 THE WITNESS: (Nodding).
12 MR. SHRINER: Okay.
13 Q Where do those 18 people work?
14 A There is ten who work in Wisconsin and eight who
15 work in Washington.
16 Q And how many offices in Wisconsin does the
17 Congressman have?
18 A We have three. One in Janesville, one in Racine,
19 one in Kenosha.
20 Q And you mentioned before that you work out of the
21 Janesville office?
22 A Correct.
23 Q Do you also sometimes work out of the other
24 offices?
25 A Sometimes.

27

1 Q About how much time do you spend in each of those
2 offices?
3 A I would say I spend 75 percent of my time in the
4 Janesville office, 24 percent of my time in
5 Washington and 1 percent in the other two.
6 Q Did Congressman Ryan himself hire you for this
7 position?
8 A Yes.
9 Q And had you previously worked for the Congressman
10 before you began your position as chief of staff?
11 A Yes.
12 Q And what previous positions did you have in his
13 office?
14 A I was his district director.
15 Q And how long did you hold that position?
16 A From January of 1999 until October of 1999.
17 Q And what were your duties as district director?
18 A Oversee the district staff, work on scheduling,
19 attend events on behalf of Congressman Ryan when
20 he wasn't available to attend events.
21 Q And were there any other tasks that you had as
22 district director?
23 A Helped with the constituent services, with meeting
24 with constituents, letter writing, responding to
25 constituents.

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1 Q Did you play any role in the redistricting process
2 that occurred in 2001?
3 A Only from the standpoint that I was receiving
4 documents and passing them along.
5 Q From whom were you receiving documents?
6 A Tom Schreiber.
7 Q And to whom did you pass them along?
8 A Congressman Ryan.
9 Q And did you do anything else in 2001 related to
10 the redistricting process?
11 A No.
12 Q And were there any other tasks that you had as
13 district director?
14 A Not that I can think of.
15 Q Before you started that position, what work had
16 you done?
17 A I worked in the State Legislature.
18 Q And what was your position there?
19 A I worked for State Senator Gary Drzewiecki as a
20 research assistant.
21 Q And how long did you have that position?
22 A From December of 1993 until I went to work for
23 Congressman Ryan.
24 Q And if you could just generally describe your
25 tasks in that position.

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1 A Sure. Oversaw the office, helped with legislative
2 research, responding to constituent calls and
3 letters, helping with drafting legislation and
4 preparing speeches and press releases.
5 Q And any other tasks in that capacity?
6 A Scheduling, helping with scheduling.
7 Q Anything else?
8 A Not that I can think of.
9 Q And before that position, do you recall what you
10 had been doing?
11 A Yes. I worked for State Representative Steve
12 Nass.
13 Q And in that position -- I mean, what was your
14 title?
15 A Legislative assistant.
16 Q And just a sort of brief summary of what you did.
17 A Sure. The same duties as in Senator Drzewiecki's
18 office, although answering the phones, opening the
19 mail. I was the only aide in the office, so I did
20 everything.
21 Q Can you describe your educational background?
22 A Sure. I went to the University of
23 Wisconsin-Whitewater for college, graduated in
24 1992. Graduated from Joseph A. Craig High School
25 in Janesville, Wisconsin in 1988, and attended

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1 St. Paul's Lutheran School in Janesville from
2 kindergarten through eighth grade.
3 Q And --
4 A Or ninth grade, ninth grade.
5 Q And what degree did you earn from college?
6 A I had a BA in political science and speech
7 communication.
8 Q And, sorry, you said that was a bachelor's, a BA?
9 A Correct.
10 Q Do you have a law degree?
11 A No.
12 Q Have you ever attended law school?
13 A No.
14 Q Have you attended graduate school of any kind?
15 A No.
16 Q Have you had any sort of specific training related
17 to the skills necessary for redistricting, for
18 instance anything related to mapping or
19 statistics?
20 A No.
21 MR. SHRINER: Wait until he's
22 finished before you start to answer.
23 Q Just sort of going now to the redistricting
24 process itself, you've alluded to the process of
25 drawing maps in the redistricting process. Can

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1 you just sort of give a summary of what your role
2 was in the redistricting process?
3 A Sure. I was responsible for getting input from
4 the other offices in order to produce a map and
5 then taking that and actually drawing the map
6 using the software that we used and then working
7 with those offices to develop a final product that
8 we would then pass along to the legislature for
9 introduction as a bill.
10 Q What other offices were you working with?
11 A I worked with the office of Representatives
12 Sensenbrenner, Petri, Ribble, Duffy,
13 Representatives Kind, Baldwin and Moore.
14 Q What was the first you heard of the redistricting
15 process?
16 A In late 2010 Tom Schreiber told me that
17 Congressman Sensenbrenner was going to likely ask
18 Congressman Ryan to lead the redistricting effort
19 on the Republican side.
20 Q And what did he tell you about that process?
21 A That he would assist me with it since I had never
22 been through it before.
23 Q And whose decision was it that Congressman Ryan
24 would be leading this effort?
25 A Congressman Sensenbrenner.

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1 Q And was anybody else involved in that decision to
2 your knowledge?
3 A Not that I'm aware of.
4 Q And can you repeat, when did that conversation
5 take place?
6 A Late 2010.
7 Q And in terms of the staff for Congressman Ryan,
8 why were you the person who was selected to lead
9 the effort?
10 A Because I was his chief of staff.
11 Q And after you had that conversation, what did you
12 do related to the redistricting process? What was
13 the next step?
14 A I asked Tom what we needed to do to get ready for
15 it, and he said we could talk more after the first
16 of the year.
17 Q And then after the first of the year did you talk
18 more?
19 A Yes.
20 Q And what conversation did you have?
21 A He told me what I needed to do as far as getting a
22 computer and then the software that I would need
23 and then to coordinate to make sure I got the
24 right data from the Census Bureau in order to be
25 able to use the software.

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1 Q So what specifically did he tell you as far as
2 obtaining the computer and obtaining the proper
3 software?
4 A He said that I should make sure that I knew what
5 the system requirements had to be for the software
6 that we would be using, and I contacted, at his
7 suggestion, Tad Ottman who handled redistricting
8 for the State Legislature to ask him what software
9 they were using and what the system requirements
10 were for operating that software.
11 Q And what did Mr. Ottman tell you?
12 A He told me the various requirements that the
13 software required from the standpoint of memory
14 and processors and so forth and told me what
15 software they were using.
16 Q And what software did he identify?
17 A He told me they were using autoBound.
18 Q And based on that information, what did you do?
19 A I went out and got a computer and --
20 Q And where did you get the computer?
21 A Susan Jacobson from our office in Janesville, the
22 Ryan For Congress office, got it.
23 Q And what's her position with that office?
24 A She's the finance director.
25 Q And when was this that the computer was purchased?

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1 A It would have been March or April of 2011.
2 Q And this was purchased with funds from Ryan For
3 Congress?
4 A Correct.
5 Q And did it have anything to do with the
6 Congressman's capacity as an elected official --
7 A No.
8 Q -- rather than his campaign?
9 A I don't understand the question.
10 Q You said that the funds used to purchase it were
11 campaign funds.
12 A Correct.
13 Q So my question was whether it was exclusively in
14 the capacity of the campaign that this was
15 purchased rather than related to his position as a
16 Congressman who has already been elected.
17 A We're not allowed to use funds from our official
18 office to purchase things related to
19 redistricting.
20 Q And what's the basis for that rule?
21 A That was an opinion of -- that was an E-Colleague
22 e-mail from the Committee on House Administration.
23 Q And do you remember when that e-mail was?
24 A I don't.
25 Q And do you know the reason for that distinction?

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1 A I don't.
2 Q So the computer itself was purchased by the
3 campaign?
4 A Correct.
5 Q How about the software?
6 A No. That was loaned to us.
7 Q And from whom was it loaned?
8 A The RNC.
9 Q And when was the first conversation you recall
10 having with anyone from the RNC about the
11 redistricting process?
12 A April of 2011.
13 Q And with whom did you speak?
14 A Mike Wild.
15 Q And, again, you had mentioned him before. What's
16 his position with the RNC?
17 A He's a redistricting aide. I'm not sure what his
18 exact title is.
19 Q And did you initiate the communication?
20 A Yes.
21 Q And was this over e-mail or over telephone?
22 A Telephone.
23 Q And what was the purpose of the conversation?
24 A I had had trouble loading the autoBound software
25 onto the laptop, couldn't figure out how to do it

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1 and get it to work, so it was suggested that I
2 contact the RNC to see if they had software that
3 might be available.
4 Q And who suggested that you contact the RNC?
5 A Tom Schreiber.
6 Q And when you contacted the RNC, what were you
7 told about the proper software to use for
8 redistricting?
9 A They said they preferred to use Maptitude because
10 it was more user friendly.
11 Q And how did you respond?
12 A That I was more than happy to use something that
13 could actually get loaded onto the computer.
14 Q And so it was the RNC that loaned this software to
15 you?
16 A Correct.
17 Q And how was it loaded onto your computer?
18 A Mike Wild loaded it onto the computer.
19 Q And once it was loaded onto the computer, what was
20 the next step in the process?
21 A Mike gave me a three-ring binder and said here is
22 how you use the software.
23 Q And then you just got started?
24 A I asked him if he could give me a brief tutorial,
25 and he spent about 20 minutes showing me the

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1 different windows and so forth that you'd use for
2 drawing the maps.
3 Q And do you remember approximately when this was?
4 A It would have been early April of 2011.
5 Q And did you have any other conversations with
6 Mike Wild about the redistricting process, aside
7 from conversations related to software and
8 technical matters?
9 A Not related to the software requirements.
10 Q So once you had the software loaded and you
11 started to learn how to use the software, what was
12 the next step in the redistricting process?
13 A Once the data was loaded to allow maps to be
14 drawn, I started drawing maps, not based on any
15 input I had received but just to practice.
16 And then once I figured out how to actually
17 use the software, I contacted the other offices on
18 the Republican side of the delegation and said,
19 you know, I've got the computer and software. Now
20 let's discuss what concerns you have moving ahead
21 with redistricting.
22 Q And so were those the first substantive
23 conversations that you had with anyone regarding
24 redistricting?
25 A Correct.

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1 Q So prior to these conversations with the other
2 offices of the Republican members of Congress from
3 Wisconsin, you hadn't discussed with anyone sort
4 of the substantive details of how you were to
5 approach redistricting?
6 A I talked to Tom Schreiber and Congressman Ryan.
7 Q And when was that?
8 A It would have been earlier in April.
9 Q And what was the substance of your conversation
10 with Tom Schreiber?
11 A Process as far as how do you start, where do you
12 start as far as, you know, knowing what concerns
13 others have, how did you do it when you did it ten
14 years ago. And with Congressman Ryan it was
15 about, you know, what guiding principles were we
16 going to follow through the redistricting process.
17 Q With respect to Tom Schreiber, you know you said
18 you talked to him about where to start. Can you
19 elaborate on that?
20 A Sure. He said when he did it he worked with
21 Congressman Obey's office at the time and reached
22 out to Congressman Obey's chief of staff.
23 Q And did he tell you anything else about the
24 process they had followed before?
25 A That once he had done that, he started working

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1 with members of the Republican side of the
2 delegation to get their concerns as far as changes
3 that would happen to their districts based on
4 population going up or down within the districts.
5 Q And did he explain to you the degree to which
6 Congressman Obey was involved in the process,
7 aside from that initial conversation?
8 A He talked more about the chief of staff that he
9 worked with at the staff level.
10 Q And with respect to the chief of staff for
11 Congressman Obey, I assume?
12 A Right.
13 Q What involvement did the chief of staff of
14 Congressman Obey have in the process back in 2001?
15 A That they exchanged maps.
16 Q Do you know how those maps had been developed?
17 A No. Other than just conversations I had with Tom
18 about our map.
19 Q And just to be clear, Congressman Obey is a --
20 formerly was a member of the Democrat
21 congressional -- was a Democratic Congressman from
22 Wisconsin?
23 A Correct.
24 Q Did you have any conversations when you were
25 discussing this with Tom Schreiber about whether

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1 or not the members of -- the Democratic members of
2 Congress from Wisconsin should be participating in
3 this process?
4 A Yes.
5 Q And what was the substance of that conversation?
6 A He said to start the conversation with Erik Olson,
7 chief of staff for Congressman Kind.
8 Q And did you do that?
9 A Yes.
10 Q And so when did you speak with Erik Olson for the
11 first time about redistricting?
12 A Boy. It would have been sometime in the spring of
13 2011.
14 Q But after you had had this conversation with
15 Tom Schreibel?
16 A I think we exchanged information prior to that.
17 Tom said to contact Erik. I did. And then after
18 that, we had the discussions about how to do
19 redistricting.
20 Q And when you said "we had discussions about how to
21 do redistricting," you're saying yourself and
22 Erik Olson?
23 A Tom.
24 Q Sorry.
25 A Tom Schreibel and then later with Erik Olson.

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1 Q Okay. So as far as Tom Schreibel goes, April of
2 2011 was when you were first having these
3 conversations. He had explained how things had
4 been done back in 2011?
5 A We had conversations --
6 MR. SHRINER: 2001.
7 Q I'm sorry, 2001. Thank you.
8 A We had conversations before April.
9 Q And what conversations did you have with him
10 before April?
11 A Process conversations.
12 Q Just related to the sort of technical issues that
13 we had been talking about, like computer software
14 and things of that sort?
15 A Right. Well, and also who to talk to on the other
16 side.
17 Q And so that was the conversation you were
18 referring to where he had mentioned --
19 A Correct.
20 Q -- the work that he had done with Congressman Obey
21 and Congressman Obey's staff?
22 A Yes.
23 Q From that point forward, I'd just like to get a
24 sense of, you know, the first time that any member
25 of the Democratic congressional delegation

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1 participated in the process.
2 MR. SHRINER: Or staff?
3 Q Or staff.
4 A March or April.
5 Q And that was with --
6 A Of 2011.
7 Q March or April of 2011. And that was with
8 Erik Olson?
9 A Correct.
10 Q And do you remember the substance of that
11 conversation?
12 A I think we just traded contact information. I'd
13 talked to him on the phone, and I don't remember
14 if it was March or April, but said I would be
15 leading the Republican side of the redistricting
16 process and that our goals were to be fair and try
17 and be bipartisan. Our goal is to get something
18 passed that could have support from both sides and
19 that I didn't necessarily see that there would be
20 an issue because anything we would be doing for
21 our own members would be helping their members.
22 Q And this was a telephone conversation that you had
23 with Mr. Olson?
24 A Correct.
25 Q And, again, you believe that was around March or

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1 April of 2011?
2 A Correct.
3 Q Would this have been before or after you had had
4 the software loaded onto your computer and you
5 were ready to go designing the maps?
6 A I don't remember.
7 MR. SHRINER: Have we established,
8 I'm sorry to interrupt you, when the census
9 data was available? It seems to me that
10 might be --
11 MR. BROWN: We have not.
12 MR. SHRINER: Okay.
13 Q You know, one of the things that you had alluded
14 to was getting data loaded onto your computer. I
15 assume you're referring to the census data?
16 A Correct.
17 Q And how did you obtain the census data?
18 A I got it from Mike Wild.
19 Q And when was that?
20 A April.
21 Q And do you know how Mike Wild had obtained the
22 census data?
23 A I don't.
24 Q And Mike Wild, did he personally load that data
25 onto your computer?

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1 A Yes.
 2 Q So moving forward, once you had that data on your
 3 computer, what was the next step in the process
 4 after you sort of played around with the software
 5 to figure out how to use it?
 6 A Spent about a month figuring out how to use it.
 7 In early May I met with the other chiefs of staff
 8 to get their input.
 9 Q And were those chiefs of staff for every member of
 10 Congress from Wisconsin or only the Republican
 11 members?
 12 A Started with the Republican side.
 13 Q Okay.
 14 A And then got feedback from Congressman Ryan. He
 15 talked to the Democrat members of the delegation
 16 about how he planned on moving forward and any
 17 concerns they specifically had about the process.
 18 Q Did he tell you about the substance of his
 19 conversation with the Democrat members of the
 20 delegation?
 21 A As it related to map drawing, yes, specific
 22 concerns they had. Representative Moore expressed
 23 an interest in representing the north shore of
 24 Milwaukee given that her district had to grow, and
 25 Congresswoman Baldwin passed along concerns about

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1 the size of her district and commute times from
 2 Madison to various locations and preferred to be
 3 more accessible to her constituents by not having
 4 long drive times, specifically as it related to
 5 Jefferson County in her district.
 6 Q And were there any other concerns from members of
 7 the Democratic delegation?
 8 A Not that I recall.
 9 Q But those were relayed from Congressman Ryan to
 10 you?
 11 A Correct.
 12 Q And you've said that there was a meeting with the
 13 other -- was it other chiefs of staff for the
 14 Republican congressional delegation that you held?
 15 A I met individually with them.
 16 Q And approximately when did these meetings take
 17 place?
 18 A Middle of May, early May.
 19 Q And what did you discuss with each of them during
 20 these meetings?
 21 A I asked them if they had specific concerns moving
 22 ahead with their districts as far as if they had
 23 to grow or shrink if there were certain areas they
 24 wanted to grow or shrink towards.
 25 Q And what feedback did they give you?

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1 A The feedback I got from Congressman Ribble's
 2 office was that they didn't necessarily have any
 3 concerns other than the Congressman owned property
 4 in Calumet County and was interested if he had to
 5 grow to grow that direction and pick up Calumet
 6 County.
 7 With Congressman Sensenbrenner, they wanted
 8 to keep their district as close to what it was
 9 with respect to Washington County. That was their
 10 main concern was keeping Washington County intact.
 11 Congressman Petri had concerns similar to
 12 Congresswoman Baldwin in that he didn't want his
 13 district stretched so that commute times became
 14 difficult as far as getting from one place to
 15 another in the district to meet with constituents.
 16 Congressman Duffy's primary concern was
 17 anything that related to shoring up the district
 18 from a political standpoint.
 19 Q And what specifically were his concerns relating
 20 to shoring up the district politically?
 21 A That his preference was to try and move it from
 22 being a strong Democrat district to moving it more
 23 towards a Republican district.
 24 Q And did he have any ideas as to how you would
 25 effect that?

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1 A He knew that counties south of where the current
 2 district line was were preferable.
 3 Q I'm sorry, were?
 4 A Preferable.
 5 Q And did he specify counties that he wanted to be
 6 included?
 7 A Moving south, he specified I believe it was going
 8 down to Juneau County, Monroe.
 9 Q And were there any other counties that he
 10 specified that he wanted to be included in his
 11 district?
 12 A St. Croix.
 13 Q Anything else?
 14 A Not that I can think of as far as adding.
 15 Q And did he specify other counties that he wanted
 16 to be removed from his district?
 17 A He had talked about counties on the, I guess it
 18 would be the eastern side, southeastern side of
 19 his district.
 20 Q And did he specify which of those counties?
 21 A I believe it was Wood and Portage.
 22 Q And did he specify any other counties?
 23 A Not that I recall.
 24 Q And were there any other concerns that
 25 Congressman Duffy had that he articulated to you

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1 or his chief of staff articulated to you?
 2 A He wasn't sure where he was going to end up living
 3 but the places that he intended on living were all
 4 well within the area that would stay in his
 5 district in the end.
 6 Q And any other concerns that were articulated to
 7 you from the perspective of Congressman Duffy?
 8 A Not that I can recall. And this again was coming
 9 from his chief of staff --
 10 Q Right.
 11 A -- but speaking on behalf of Congressman Duffy.
 12 Q And what were the other concerns that members of
 13 the Republican delegation, through their chiefs of
 14 staff, articulated to you to guide your drawing of
 15 the maps?
 16 A No one wanted to be any worse off than they were
 17 heading into the process --
 18 Q When you say --
 19 A -- from a political standpoint.
 20 Q And did they give you any ideas as to how to
 21 ensure that they would not be worse off from a
 22 political standpoint?
 23 A Just Congressman Duffy with the suggestions he
 24 made with adding and removing counties.
 25 Q So once you were armed with this information, what

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1 was the next step in the process of formulating
 2 the districts?
 3 A I started drawing then, starting with
 4 Representative Moore's district, because I knew we
 5 had to add there and that would probably be
 6 easiest to just add the north shore as she had
 7 indicated was her preference, and then basically
 8 worked out from Milwaukee County, worked on the
 9 First, the Fifth, the Sixth, and then the Eighth,
 10 the Seventh, the Third, the Second.
 11 Q And so that was the order in which you redrew the
 12 districts?
 13 A Yeah. I'd go back and forth, but I started in
 14 Milwaukee and then worked outward.
 15 Q What principles guided the work that you did in
 16 drawing these districts?
 17 A Congressman Ryan said we need to be fair and we
 18 need to try and be bipartisan and we obviously
 19 have to be legal, and so those were the three
 20 things that drove the conversations we had with
 21 all of the members.
 22 Q In terms of being legal, what were the legal
 23 requirements, as you understood them, that guided
 24 what you did?
 25 A The -- I'm sorry. I keep interrupting you. One

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1 people, one vote; zero deviation.
 2 Q And can you explain in your own words what one
 3 person, one vote is?
 4 A Every congressional district has to have the exact
 5 same number of people in it from each state, and
 6 so what happens is after a census, people move in
 7 and out of districts and therefore they come out
 8 of balance and some areas shrink, like the Fourth
 9 District had, and then other places grow, like the
 10 Second District and others had. So you have to
 11 figure out a way to redraw those lines so that
 12 they all end up having the exact same number of
 13 people in each district.
 14 Q And do you know what the -- well, sorry. Strike
 15 that. Are you familiar with the concept of ideal
 16 population in the redistricting context?
 17 A You mean that everyone has got to have the same
 18 number?
 19 Q Right. Exactly.
 20 A Yeah. We would refer to it as zero deviation.
 21 Q Okay. So in terms of having zero deviation, what
 22 was the number that you were targeting that each
 23 district needed to have in order to ensure
 24 zero deviation?
 25 A I don't remember the exact number off the top of

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1 my head.
 2 Q If I were to tell you that that number was
 3 710,873, does that sound familiar?
 4 A Yes. I think so.
 5 MR. SHRINER: The total divided by
 6 eight.
 7 MR. BROWN: Yes, exactly.
 8 Q So your understanding of how you would calculate
 9 that is by taking the population of Wisconsin as
 10 calculated in the 2010 census and dividing that by
 11 the eight congressional districts; correct?
 12 A Correct.
 13 Q And that yields the sort of ideal population that
 14 you strive for each district to hit?
 15 A Correct.
 16 Q So that was one of the considerations that played
 17 into your redrawing of the districts?
 18 A Yes.
 19 Q What were other factors that you considered?
 20 A To be fair.
 21 Q And how would you define that?
 22 A We controlled each step of the process from a
 23 legislative standpoint, and therefore it would
 24 have been easy to take advantage of that from a
 25 political standpoint as happens in other states,

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1 like Illinois.
 2 Q And when you say we controlled the process, do you
 3 mean Republicans?
 4 A Correct.
 5 Q Okay. And from the legislative standpoint, you're
 6 referring to the composition of the legislature in
 7 Wisconsin?
 8 A Correct.
 9 MR. SHRINER: Finish your answer.
 10 A It's a process whereby if one side controls the
 11 legislative process, they're basically able to
 12 pass maps through the process to their liking, and
 13 our thought was we've got to work with everyone in
 14 this delegation following the drawing of this map
 15 and therefore we should do things that are
 16 sensible and fair and not do things like draw
 17 incumbents together, as happens in other states,
 18 and that we shouldn't do things that show we're
 19 being overly political by flipping districts from
 20 being a Democrat district to a Republican
 21 district, and basically to take input from the
 22 other members rather than just manipulating the
 23 process to our own liking.
 24 Q And so in order to ensure that the process was
 25 fair, what steps did you take?

53

1 A I took the feedback Congressman Ryan got from the
 2 other members and tried to incorporate that to the
 3 best of my ability into the map drawing, whether
 4 it was Democrats or Republicans, and we didn't
 5 draw any plans that put incumbents together. We
 6 didn't draw any plans that flipped districts from
 7 being Republican to Democrat.
 8 Q And was there anything else that you did to ensure
 9 that the process was fair?
 10 A We exchanged maps on what we were thinking versus
 11 what -- we exchanged maps.
 12 Q And you exchanged maps with?
 13 A Erik Olson and the other members of the
 14 delegation. We shared maps with Representative
 15 Baldwin, Representative Moore, and all the members
 16 of the Republican delegation.
 17 Q Did you exchange maps with members of the Democrat
 18 delegation to the same extent that you shared them
 19 with the Republican members of Congress?
 20 A No.
 21 Q So how frequently did you share them with
 22 Republican members versus Democrat members?
 23 A I think I shared three copies -- four copies with
 24 Republican members and two copies with Democrat
 25 members.

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1 Q And why did you share more frequently with
 2 Republican members than Democratic members?
 3 A I had a harder time getting the Republican members
 4 to agree to the districts that we were drawing.
 5 Q Going back to just sort of this process of drawing
 6 the districts, you explained that, what, you
 7 basically started in Milwaukee and then moved
 8 outward. When was it that you started this
 9 process of actually drawing the districts?
 10 A May. I think the first map I produced that I
 11 shared with anyone was May 13th. A week before
 12 that.
 13 Q And about how long did it take to develop that
 14 map?
 15 A A week.
 16 Q And then who did you share the map with for the
 17 first time?
 18 A I shared it with the chiefs of staff from the
 19 Republican side of the delegation.
 20 Q And did you share it also with the chiefs of staff
 21 from the Democratic side or no?
 22 A I did not.
 23 Q And why didn't you at that stage?
 24 A Because I wanted to get one side straight before I
 25 started the other side.

55

1 Q So you were taking into consideration the
 2 Republican members' input ahead of that of the
 3 Democratic members?
 4 A Correct.
 5 Q And what input did you get from the Republican
 6 members based on that initial draft?
 7 A None of them were very happy with it, so I got
 8 additional input from them and went back to the
 9 drawing board and drew another version.
 10 Q And do you remember why they weren't happy with
 11 that version of the map?
 12 A Congressman Petri's concern, through his chief of
 13 staff, was that I believe I had gone too far west
 14 for their liking.
 15 Congressman Ribble, through his chief of
 16 staff, said that I had made their district too
 17 compact and he liked representing the northwestern
 18 counties that were in his district under the old
 19 map.
 20 Congressman Sensenbrenner, through his chief
 21 of staff, I had taken parts of Washington County
 22 out of their district, and they didn't like that.
 23 Congressman Duffy wanted me to push the map
 24 further south into some counties that were more
 25 preferable to him.

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1 Q And did you get any other feedback from the
2 Republicans at that time?
3 A Not that I can think of.
4 Q And then the next step in the process was to
5 redraw the maps taking into account the feedback
6 you had received?
7 A Correct.
8 Q And how long did that process take?
9 A About another week or so, a little more. Yeah,
10 about ten days maybe.
11 Q And once you had developed that draft, what was
12 your next step? Did you again share it with
13 anyone?
14 A Yes. And I also shared the first map with
15 Congressman Ryan and got his feedback on it.
16 Q And what was Congressman Ryan's feedback on the
17 first map?
18 A He said that I had made --
19 MR. OLSON: Excuse me, who did you
20 say, Ryan or Kind?
21 MR. SHRINER: Ryan, his boss.
22 MR. HASSETT: Ryan.
23 MR. OLSON: All right.
24 A He was concerned that I had shifted the Second
25 District too far west. I don't know if a copy is

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1 in here.
2 Q Actually, well, there is a copy of the map that --
3 as passed in Act 44, which is here which we can
4 enter as an exhibit which I was going to do later,
5 so if we could mark this as an exhibit.
6 MR. BROWN: What exhibit number are
7 we at?
8 COURT REPORTER: Number 44.
9 MR. BROWN: Number 44. We can mark
10 this as Exhibit 44, and in Exhibit 43 if you
11 have any other -- if the drafts are in there,
12 you are turn to it now.
13 MR. SHRINER: So Exhibit 44 is a
14 blow-up of the Act 44 lines?
15 MR. BROWN: Yes.
16 MR. SHRINER: How did you manage
17 that?
18 MR. HASSETT: It took a lot of
19 planning. It began months ago.
20 THE WITNESS: I see you guys
21 couldn't figure out how to get those lines
22 out of Lake Michigan either. That was a
23 problem I had.
24 A In the first draft, if I recall correctly, I
25 had -- the Second District went all the way to the

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1 Mississippi River and Congressman Ryan pointed out
2 that -- he had told me that we were trying to keep
3 Congresswoman Baldwin's district from increasing
4 her commute times to meet with constituents, and
5 then likewise he had said it was his understanding
6 that Congressman Kind's impression was that the
7 Mississippi corridor was part of his district so I
8 should shift that line back east on the map.
9 I don't remember what else to say.
10 Q Would it be preferable if the map were closer and
11 then you could actually point to the areas and
12 then we can capture it on the video?
13 MR. SHRINER: It's whatever you
14 want. The map is the map. We know what it
15 shows. Whatever form it's in.
16 THE WITNESS: Do you need me to
17 lift it up?
18 MR. SHRINER: No.
19 MR. BROWN: Yeah.
20 MR. SHRINER: No. No, I don't want
21 you lifting it up. Figure out how to do it
22 the way you want it testified.
23 MR. BROWN: Okay. Actually, I
24 mean, should we just take a quick break and
25 we'll try to set up the map in a way that

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1 it's easier to use.
2 MR. SHRINER: That's fine.
3 MR. CAMPBELL: The time is 11:35.
4 We are going off the record.
5 (Recess)
6 (Exhibit No. 44 marked for
7 identification)
8 MR. CAMPBELL: The time is 11:51.
9 We are back on the record.
10 Q Mr. Speth, before we broke you had been gesturing
11 to a map that wasn't actually visible on the
12 video, and so we have readjusted the map so you
13 can gesture as you please.
14 I think we were talking about suggestions
15 that Representative Ryan had given you based on
16 the first draft of the congressional redistricting
17 map that you had developed.
18 A Correct.
19 Q And if you want to just resume explaining some of
20 the suggestions that Representative Ryan gave to
21 you relying on the map, and you can also feel free
22 if you wanted to write on the map to indicate the
23 areas that you're referring to, or you could
24 simply point.
25 MR. SHRINER: I've just given him a

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1 pointer.

2 MR. BROWN: Yeah.

3 A The concern Congressman Ryan pointed out was in

4 the first draft I had the Second Congressional

5 District was pushed all the way to the Mississippi

6 River, and as a result of that he reminded me that

7 his conversation with Congresswoman Baldwin had

8 been that she preferred to not have long drive

9 times because it limited her accessibility to hold

10 more meetings in a day if she was spending more

11 commuting time, so he suggested that it get

12 shifted back to the east.

13 And likewise, he said that his understanding

14 from Congressman Kind over the years had been that

15 Congressman Kind's opinion was that it was a

16 Mississippi River district in the Third so

17 therefore it would also solve that issue if we

18 pushed it back east.

19 Q So that was one suggestion that Congressman Ryan

20 gave you, or two, rather. Were there any other

21 suggestions that he gave you based on the first

22 draft of the map?

23 A I believe he had concerns about Washington County.

24 I can't remember if that -- I believe that

25 first draft had Washington County split and he

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1 knew that there would be concerns with

2 Congressman Sensenbrenner given that split.

3 Q Any other suggestions?

4 A No, not that I can think of.

5 Q And aside from Representative Ryan and the chiefs

6 of staff to the other Republican members of

7 Congress from Wisconsin, was there anybody else

8 with whom you shared that first draft of the map?

9 A No.

10 Q And then you said --

11 MR. SHRINER: Excuse me, let's push

12 that glass out of your way there. Sorry.

13 Q And then you said following the input from all of

14 those individuals it took you about another week

15 to develop a new draft of the map. Did you

16 account for all of the suggestions that were given

17 to you from these individuals?

18 A No, because these counties were originally in the

19 Eighth Congressional District.

20 Q And can you specify the counties that you're

21 referring to?

22 A Florence, Forest, Langlade, I believe Vilas as

23 well, and Congressman Ribble's office had said

24 that they weren't necessarily in support of

25 shifting the district from those northwestern

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1 counties, but I told them that, you know, we were

2 shifting things this way so therefore I wouldn't

3 be able to go back and make that change because it

4 would throw things out of deviation because then I

5 would have to push north and then if we did that

6 they wouldn't be able to keep Calumet County

7 anymore in their district, which they had also

8 requested as one of their considerations given

9 the property that Congressman Ribble had in

10 Calumet County.

11 Q And do you recall the reason why

12 Congressman Ribble had those concerns about

13 Forest County and the surrounding counties?

14 A Yeah. He likes this area. He said it's a

15 beautiful area of the state and he liked going up

16 there.

17 Q And there was no other rationale for those

18 concerns of his regarding the map?

19 MR. SHRINER: Are you saying no?

20 A No.

21 Q And you had also explained that based on other

22 shifts in the Seventh District it would have been

23 impossible to account for those concerns of

24 Congressman Ribble. What were those other shifts,

25 and, you know, why were those shifts made?

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1 A Can you repeat that question?

2 Q Yes. I believe when you were describing --

3 explaining why you couldn't take into account

4 Congressman Ribble's suggestion, you explained

5 that that was because of other changes on the

6 other side of the Seventh District, I believe, the

7 western and the --

8 A Right.

9 Q -- southern edges of the district. So, you know,

10 what were those changes to the map and why did you

11 put those in place?

12 A Well, the problem was Calumet County has quite a

13 bit more population than these counties. There

14 are not many people living up here.

15 Q And, again, those counties, can you just kind of

16 rattle off?

17 A Yeah. Vilas, Florence, Forest, Langlade. And so,

18 as a result, if their first concern was adding

19 Calumet County, you couldn't keep all of these

20 counties because of the population differences.

21 So his district had to shrink if -- from a

22 geographic standpoint if he wanted Calumet County.

23 Q So the issues related more to the Eighth

24 Congressional District rather than the Seventh

25 Congressional District?

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1 A Yes, and that shift to the south.
2 Q Were there any other suggestions that you
3 ultimately were not able to take into account when
4 you redrew the map and developed the second draft?
5 A I believe it was between the first and second
6 draft that Congressman Duffy had expressed an
7 interest in going further south, but I wasn't able
8 to accomplish that because of, again, the
9 population issues. But then on top of it, it just
10 didn't meet that fairness and sensible guiding
11 principle that we had with the map.
12 Q And what was the reason that Congressman Duffy
13 wanted the Seventh District to go even further
14 south?
15 A It increased his numbers from a political
16 standpoint to his advantage.
17 Q And how far south did he request his district to
18 go?
19 A I know we had more of Monroe County.
20 Q More of Monroe County than is reflected in Act 44?
21 A Correct. It went -- I believe it went all the way
22 down to here.
23 Q And if you could sort of try to articulate about
24 where that is.
25 A Sure. There is a line of towns, Wilton, Clifton,

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1 it looks like Fountain, Lisbon. It came down to
2 this line right here.
3 Q And that line reflects those towns. It
4 basically --
5 A Correct.
6 Q -- goes through those towns that you just
7 mentioned?
8 A Correct.
9 Q And that was what Congressman Duffy had asked for?
10 A Yes.
11 Q And you were not able to do that for him, for what
12 reasons?
13 A We told him we weren't going to draw the map to
14 look like that, that it just -- it didn't pass the
15 sensibility test and that it wasn't -- we didn't
16 see it as being advantageous to our goals of being
17 fair and trying to be bipartisan, that we would
18 get overly criticized from a legislative
19 standpoint, as well as a public standpoint, if we
20 tried to go that far.
21 Q And can you explain in just a bit more detail why
22 it wouldn't be sensible to have extended the
23 boundary that far south? I mean would it make the
24 district sort of look funny in a sort of
25 gerrymandering sense? Would it make the district

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1 cover too large an area? Was there sort of a
2 specific concern that you had in the possibility
3 of making that change?
4 A Yeah. Well, it got to the point where there just
5 wasn't an advantage for him really politically to
6 keep moving that far south. Much like
7 northeastern Wisconsin, there is not a lot of
8 population in that area.
9 Q And when you developed -- sorry. And were there
10 any other suggestions based on the first draft of
11 the map that weren't ultimately reflected in the
12 second draft of the map?
13 A Congressman Petri, through his chief of staff,
14 expressed reservations, and I can't remember if
15 the first draft or second draft had him in
16 Columbia County. I would have to look at another
17 map to know whether or not it was the first or
18 second draft that they had concerns about.
19 Q And have you produced copies of those drafts of
20 the map?
21 A I believe it's on the disk.
22 Q Okay. That's fine. Those files were -- it was
23 not really feasible --
24 A Those PDFs are big.
25 Q -- to print them, so that's fine. And then once

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1 you produced the second draft of the map, with
2 whom did you share it?
3 A I shared it -- The second draft, I'm trying to
4 recall when we had meetings with members. Those
5 didn't take place until June. The second draft
6 would have been with the chiefs of staff on the
7 Republican side of the delegation as well.
8 Q And do you remember when that meeting was?
9 A Those would have been after Memorial Day.
10 Sometime between the 24th and the end of the
11 month.
12 Q You're referring to May 2011?
13 A Correct, correct.
14 Q And were they meetings with individual chiefs of
15 staff for each member of the Republican
16 delegation?
17 A Yes.
18 Q And did you meet with each one of them for --
19 A Yes.
20 Q So there were four chiefs of staff with whom you
21 met?
22 A Correct.
23 Q And what feedback did you receive during those
24 meetings?
25 A I believe that's when I got the feedback about

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1 Columbia County, because that first draft had the
 2 Second District going all the way over here. And
 3 then I pushed -- Sauk County was added in that
 4 second draft, if I'm recalling correctly.
 5 Q It was added to which district?
 6 A The Second. And then Columbia County was an issue
 7 for Congressman Petri's office, because they were
 8 worried about commute times all the way over to
 9 the western side of the district.
 10 And then Congressman Duffy's office, that was
 11 at a later meeting where Congressman Duffy
 12 actually brought up a concern with his district.
 13 Still dealt with issues in the Fifth District
 14 with shifting west and putting Jefferson County --
 15 all of Jefferson County in the Fifth. Previously
 16 only a portion of it had been in the Fifth
 17 Congressional District, and adding all of it,
 18 Congressman Sensenbrenner's office offered some
 19 reservations about adding all of Jefferson County.
 20 Q When you say previously, you mean in the district
 21 as it existed in the past ten years?
 22 A Correct. The past ten years Jefferson County was
 23 split three ways between the Second, the Fifth and
 24 the Sixth.
 25 Q And in this second draft of yours, you put all of

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1 Jefferson County in the Third District?
 2 A It was either the second or the third draft.
 3 MR. SHRINER: You mean the
 4 Fifth District?
 5 Q In the Fifth District?
 6 A In the Fifth.
 7 Q And the feedback you received, you received
 8 some reservations about that from --
 9 A Correct.
 10 Q -- Representative Sensenbrenner?
 11 A Correct.
 12 Q And did you end up doing anything in response to
 13 that feedback?
 14 A No.
 15 Q And why was that?
 16 A Because it was too difficult to include -- I'm
 17 trying to remember. Washington -- they wanted
 18 Washington County. They had to pick up more
 19 population, so --
 20 MR. SHRINER: In the Fifth? In the
 21 Fifth?
 22 A In the Fifth they had to pick up more population,
 23 so the way to do that was moving west because
 24 Congressman Petri's office was concerned that
 25 their move west had affected their numbers such

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1 that I had to add Ozaukee County, portions of
 2 Ozaukee County I believe in the second draft to
 3 the Sixth.
 4 Q So one change basically begets another change?
 5 A Correct.
 6 Q Do you recall the other feedback that you received
 7 based on that second draft?
 8 A I don't.
 9 Q Did you share the draft with anybody else other
 10 than through these meetings with the chiefs of
 11 staff of the five members of the Republican
 12 delegation?
 13 A Congressman Ryan.
 14 Q And what was Congressman Ryan's feedback on that
 15 second draft?
 16 A That I should try and get a third draft ready so
 17 that we could meet with the actual members and
 18 show them a draft in meetings that met most of the
 19 concerns that had been brought to me from the
 20 previous two drafts from the chiefs of staff.
 21 Q Do you know if the actual members of Congress had
 22 seen the previous drafts?
 23 A They may have. I gave hard copies, but I don't
 24 know for sure.
 25 Q But the feedback you had received previously was

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1 from their chiefs of staff rather than the members
 2 themselves?
 3 A Correct.
 4 Q And did Congressman Ryan give you any other
 5 feedback based on the second draft?
 6 A No.
 7 Q And you did not share that second draft with
 8 members of the Democrat congressional delegation?
 9 A No.
 10 Q And then about how long did it take to develop the
 11 third draft?
 12 A A week. I know we met the first week of June.
 13 Q You met the first week of June with?
 14 A Members of the entire delegation.
 15 Q The entire delegation meaning Republicans and
 16 Democrats?
 17 A Correct.
 18 Q And do you remember the specific date of that
 19 meeting?
 20 A I don't.
 21 Q Was that meeting in Washington, D.C. or in
 22 Wisconsin?
 23 A Washington, D.C.
 24 Q And what feed --
 25 A We met -- I'm sorry to interrupt.

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1 Q You can continue.

2 A We met separately with all of the members of

3 the delegation, and then following that we had

4 a delegation meeting with everyone in

5 Congressman Sensenbrenner's office.

6 Q And when were those individual meetings held?

7 A Those were held the first week of June.

8 Q And at that point you had already produced the

9 third draft of the map and they had already seen

10 the third draft of the map?

11 A When they came to the meetings, we showed them the

12 maps.

13 Q Okay. And do you remember the feedback that you

14 received from the various members based on the

15 third draft in those individual meetings?

16 A Yes. With Congressman -- I'll start with

17 Congressman Duffy. He had a concern about whether

18 or not Senator Kreitlow -- former Senator Kreitlow

19 was in his district or not, and I said it was my

20 understanding that he was and I asked if he wanted

21 that to remain the case and he said he did.

22 He still had concerns about wanting to shift

23 the map further south and expressed questions to

24 me about whether or not there could be more done

25 to move it more towards a Republican district from

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1 being a Democrat district.

2 In the Third, when we met with

3 Representative Kind and his chief of staff, he

4 expressed concerns about the shape of the Third

5 District.

6 Q What specifically were those concerns?

7 A That it looked unusual.

8 Q Uh-huh. And did the district in that draft look

9 basically the way it looks now in Act 44?

10 A Yes, yes, with the exception of in Monroe County I

11 believe, this is Monroe County, I believe

12 Fort McCoy is over here between Tomah, in this

13 area. The map extended down a little further

14 south, and Fort McCoy was in the Seventh District

15 instead of the Third and the maps we had were on

16 8 1/2-by-11 paper so it was difficult to tell, and

17 the question he had was is Fort McCoy still in the

18 Third District or is it in the Seventh, and we

19 said we would check because he expressed his

20 interest in keeping Fort McCoy in the Third

21 District as opposed to putting it in the Seventh.

22 Q Did he express -- Did he explain why he wanted

23 Fort McCoy to remain in the Third District?

24 A He had -- He said he spent a lot of time there and

25 enjoyed representing that military base.

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1 Q Were there any other suggestions or observations

2 or comments that Representative Kind gave you?

3 A He expressed concerns about the shift from the

4 Seventh to the Third of Portage and Wood Counties.

5 Q And why was he concerned about that?

6 MR. SHRINER: At least what did he

7 say; right? I'm not sure he can read his

8 mind.

9 MR. BROWN: Yes.

10 A He said that contributed to the district having an

11 unusual look.

12 Q And did he express any other specific concerns

13 with that aspect of the map?

14 A Not that I can recall.

15 Q And how did you respond to those concerns?

16 A Congressman Ryan said that we were trying to

17 create a better balance for the Seventh District.

18 Q When he said a better balance?

19 A Politically.

20 Q And do you remember how Representative Kind

21 responded to that?

22 A I don't.

23 Q And were there any other comments from

24 Representative Kind?

25 A At each of the meetings Congressman Ryan expressed

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1 to the members that basically we were able to

2 carry out this process, the traditional process of

3 having the delegation forward a map to the

4 legislature, because we had always done so in a

5 way that didn't escalate into a partisan fight and

6 that if we were to start to publicly discuss the

7 maps and criticisms or shortfalls with the maps

8 and turn it into a partisan issue that it was

9 possible that the State Legislature would say,

10 *We'll handle it ourselves if this is going to end*

11 *up in a partisan fight. We've dealt with enough*

12 *partisan fights over the first half of this year*

13 *and we'll just do it ourselves if you can't send*

14 *us something that is agreeable or at least won't*

15 *cause problems from the standpoint of more*

16 *criticism of not being partisan.*

17 Q And that's what Congressman Ryan articulated to

18 Congressman Kind?

19 A To every member of the delegation.

20 Q And do you recall how the members of the

21 delegation reacted to that?

22 A They understood -- I can't say individually how

23 each one reacted but they each, for the most part,

24 understood that that indeed was the case given

25 what had transpired over the past six months.

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1 Q Did there appear to be consensus that that was the
2 appropriate approach?

3 A We preferred to -- All of the members preferred to
4 keep it in control of the delegation versus having
5 the State Legislature draw the maps.

6 Q Did the Democratic members of the delegation
7 express any concerns about not having had a say in
8 this process from the beginning? For example, not
9 having seen the first two drafts of the map?

10 A No.

11 Q Were there any other concerns that the Democratic
12 members of the delegation articulated about the
13 process that was followed?

14 A Congresswoman Baldwin just asked us why we made
15 the changes we made to the Second.

16 Q And what response -- Did she specify what changes
17 she was asking about?

18 A The move to the north and west.

19 Q And did she have concerns about that, that she
20 articulated?

21 A Not that I recall.

22 Q And do you recall how those changes were justified
23 to her?

24 A That we moved the Fifth into Jefferson County, and
25 therefore, to make the difference, Sauk County was

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1 added.

2 Q And what was the explanation for moving the Fifth
3 into Jefferson County?

4 A That the Fifth had shifted to the west from
5 Ozaukee County into Jefferson County.

6 Q And what was the reason for that shift?

7 A Because Congressman Petri's district had shifted
8 to the west and that affected his political
9 balance, and therefore adding Ozaukee County put
10 it closer to where it was previously.

11 Q So can you elaborate on how the political balance
12 affected those decisions that you were just
13 talking about?

14 A There is more Democrat voters here --

15 Q And when you say here, can you specify where
16 you're --

17 A Waushara, Marquette, Columbia, compared to
18 Ozaukee County.

19 Q And so how were specific districts shifted to
20 account for that?

21 A Well, shifting to the west lowered --

22 Q I'm sorry, which district are you referring to,
23 can you specify?

24 A The Sixth District. Shifting to the west in the
25 Sixth District caused the political numbers for

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1 Congressman Petri to go down. So to make up for
2 that, adding Ozaukee County caused them to balance
3 out.

4 Q So would you say that that shift that you were
5 just describing in the Sixth District is sort of
6 what triggered the other changes that ultimately
7 led the Second District to push further to the
8 north and the west?

9 A In part. Taking Calumet County out also had the
10 same effect as -- the opposite effect of Ozaukee
11 County. Basically these two sort of canceled each
12 other out. If you remove --

13 Q Sorry, just to say, these two being, can you
14 articulate?

15 A Calumet County and Ozaukee County. Calumet County
16 was in the Sixth, and taking it out lowered that
17 profile, the Republican profile.

18 Q And when you say lowered that profile?

19 A The Republican profile.

20 Q Okay.

21 A Then shifting west lowered it more. Putting
22 Ozaukee County in brought it back closer to where
23 it was previously.

24 Q If you can recall, what was the other feedback
25 that you received from the specific members of

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1 Congress when you had these meetings concerning
2 the third draft of the map?

3 A With Congresswoman Moore, I don't know because
4 Paul met with her.

5 Q Paul meaning Congressman Ryan?

6 A Correct.

7 Q Okay. And were there any other -- Was there any
8 other feedback that you recall receiving based on
9 this third draft?

10 A Congressman Sensenbrenner was fine with taking
11 Jefferson County as long as Washington County
12 remained whole.

13 Congressman Ribble still had reservations
14 about moving Vilas, Oneida, Langlade, Forest and
15 Florence Counties out but was agreeable to that
16 with the addition of Calumet County.

17 Did I cover them all?

18 Q And that's the extent of the feedback that you can
19 remember receiving on the third draft of the map?

20 A Correct.

21 Q Did you share the third draft with anyone other
22 than members of the congressional delegation from
23 Wisconsin and their staff?

24 A No.

25 Q And then once you received this feedback, what was

80

1 the next step in the process?

2 A I went back and checked on whether or not

3 Fort McCoy was in the Third or the Seventh and

4 found out that it was actually in the Seventh and

5 redrew the line around -- it was in this area. I

6 redrew that so it moved north so that Fort McCoy

7 would remain in the Third.

8 Q And that was based on Representative Kind's

9 request?

10 A Correct. Correct.

11 Q And was that the only change that you made after

12 those meetings?

13 A I went back and had to make sure the zero

14 deviation was correct.

15 Q And did you have to make any changes based on

16 zero deviation?

17 A I did.

18 Q Do you remember what those changes were?

19 A I had to make some in Milwaukee County and

20 Waukesha County. I also believe we had some in

21 Winnebago County. And we had some island issues,

22 islands being there will be census tracts that

23 won't have any population in them and you

24 basically just have to cancel those out so that

25 they don't look like they're in two separate

81

1 districts.

2 Q And when you were addressing these zero deviation

3 issues, can you remember, you know, how much

4 population you ended up shifting to account -- to

5 eliminate any deviation in that last round of

6 edits?

7 A Less than 20.

8 Q Less than 20 people?

9 A Uh-huh.

10 Q So none of those --

11 MR. HASSETT: What was that?

12 MR. SHRINER: Less than 20 people.

13 MR. HASSETT: 20 people.

14 A Per district.

15 Q And so none of those changes resulted in a really

16 discernible difference in the shape of the

17 districts?

18 A No. The only one you would notice from looking at

19 the map would have been the change with

20 Fort McCoy.

21 Q And throughout this process, you know we've been

22 talking through now four different drafts of the

23 map, had you been in contact with anyone from the

24 Wisconsin State Legislature or any staff members

25 for legislators during that time?

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1 A Yes.

2 Q And who were you in touch with?

3 A I was in touch with Senator Fitzgerald and

4 Senator -- or not Senator but Representative

5 Fitzgerald.

6 Q And when were you in touch with them?

7 A Mid-May.

8 Q And was this the first time you communicated with

9 them about the redistricting process?

10 A No.

11 Q When had you previously communicated with them

12 about redistricting?

13 A In the beginning of 2010.

14 Q And what was the substance of that conversation?

15 A There was a meeting where they had talked about

16 what legislative options we would have moving into

17 the redistricting process the following year given

18 that we didn't control any of the legislative

19 bodies or the administrative bodies that write the

20 redistricting maps.

21 Q And when again was that meeting?

22 A January or February of 2010.

23 Q And who participated in that meeting?

24 A I know Senator Fitzgerald was there. I can't

25 recall if Representative Fitzgerald was there in

83

1 person or by phone. There were some people on the

2 phone. I remember that. Tom Schreiber was on by

3 phone. I was there. Adam Foltz was there.

4 Q And can you explain who Adam Foltz is?

5 A He ended up being the person who did redistricting

6 for the Assembly is my understanding. The

7 attorney, Jim Troupis, was there, and I can't

8 recall whether -- I think Eric McLeod was there,

9 and there were some other members of the

10 legislature there but I can't remember. I think

11 Mike Huebsch was there but I can't remember. I

12 can't remember.

13 Q And where was this meeting held?

14 A This was held in Madison in the glass bank.

15 MR. SHRINER: The US Bank?

16 THE WITNESS: Yes.

17 Q Was this at the offices of Michael Best?

18 A Yes.

19 Q And who called the meeting?

20 A Senator Fitzgerald and Representative Fitzgerald.

21 Q And the purpose of the meeting?

22 A They wanted to discuss what our options would be

23 heading into a redistricting cycle given that we

24 Republicans didn't control any seats at the table

25 in the redistricting process.

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1 Q And what strategy was discussed at that point?
2 A It was to try and figure out what, if anything,
3 we could do from a legislative process in the
4 State Legislature and then if there was any legal
5 recourse.
6 Q And what options were discussed in terms of,
7 you know, in the State Legislature?
8 A Well, they said we should try and win back one of
9 the houses of the legislature.
10 Q Smart strategy.
11 A Or the Governor's office so that we would at least
12 have a seat at the table, and then they said as
13 far as the legal strategy was concerned, we would
14 have to see how things played out after the
15 elections.
16 Q Were there any other topics discussed at that
17 meeting?
18 A No, just redistricting.
19 Q And then fast-forward through history. They
20 actually did get their wish and the State Assembly
21 and Senate and the Governor's office both -- they
22 all changed hands to the Republican Party. In
23 that time between that initial meeting and when
24 those elections occurred, did you have any other
25 contact with members of the legislature about the

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1 redistricting process?
2 A Not between January and then the spring of 2011.
3 MR. SHRINER: Between January of
4 2010 and the spring of 2011?
5 THE WITNESS: Correct.
6 MR. SHRINER: Okay.
7 Q And then at that point in the spring of 2011 when
8 the Republicans did control both houses of the
9 State Legislature and the Governor's office, when
10 was your first contact with anyone from the
11 legislature about this process?
12 A I met with Senator Fitzgerald in May.
13 Q And do you remember, is this the meeting that you
14 had alluded to a few minutes ago with both --
15 A Correct.
16 Q -- both Senator Fitzgerald and Representative
17 Fitzgerald?
18 A No. This meeting was just with Senator
19 Fitzgerald. I had talked to Representative
20 Fitzgerald on the phone.
21 Q Okay. And what did you discuss with
22 Senator Fitzgerald in this meeting?
23 A He asked for an update on where we were at with
24 things in the congressional delegation with
25 passing the map, and then I had updated him and

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1 told him, you know, we were on our second draft at
2 that time.
3 Q But you didn't share the draft with him at that
4 time?
5 A Now that I'm recollecting, I did.
6 Q Do you recall if there was anybody else from the
7 legislature with whom you shared a draft of the
8 map?
9 A No. I did not let him keep a copy of the map.
10 Q Did Senator Fitzgerald have any comments on that
11 second draft of the map?
12 A He asked about what our priorities were with the
13 draft that we had shown him, and I explained that,
14 you know, we were trying to be fair because that's
15 the tradition that we had held in the past, we
16 didn't want to turn this into a partisan fight and
17 that as a result we were not taking full political
18 advantage of the fact that the legislature and the
19 Governor's office were controlled by Republicans
20 and therefore a map that could have been more
21 punitive to the Democrats could have easily been
22 drafted and passed.
23 Q And what was the Senator's response to that?
24 A He said, I'd told Congressman Ryan previously in a
25 discussion they had had that he was going to leave

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1 it to the members of the delegation to draft their
2 map and he would keep his word to that.
3 Q Following this meeting, what was the next contact
4 you had with anyone from the legislature about the
5 process?
6 A That same -- Around that same timeframe I had
7 spoke to Speaker Fitzgerald just to let him know
8 that we were on track to get our map done prior to
9 the legislature adjourning so that it could be
10 passed in that session.
11 Q And did you share a copy of the map with
12 Speaker Fitzgerald?
13 A No.
14 Q Did you talk at all about the substance of the map
15 and the changes that you were making?
16 A No.
17 Q So this call was strictly about the process of
18 getting it passed?
19 A Correct.
20 Q And after that call with Speaker Fitzgerald, when
21 was the next communication you had with anyone
22 from the legislature?
23 A When you say "from the legislature," do you mean
24 staff or --
25 Q Including staff as well as members of the

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1 legislature.
2 A Okay. I was in communication with Tad Ottman and
3 Adam Foltz to find out, you know, when are you
4 guys going to be ready to move legislation, how
5 much time do I have before I need to get you
6 something that's ready to be put into actual bill
7 language.
8 Q And you had explained before who Adam Foltz is.
9 Can you explain who Tad Ottman is?
10 A Tad Ottman handled redistricting for the Senate
11 side.
12 Q And around when was this conversation with them?
13 A June of 2011.
14 Q And, again, this is just sort of referring to the
15 process of when they needed to have bill language
16 drafted so that it could be passed by the
17 legislature?
18 A Yes.
19 Q And whose responsibility was it to draft the bill
20 language based on the maps that you were
21 producing?
22 A He said we needed to get something to them to
23 forward to the LRB.
24 Q Something being bill language or a draft map?
25 A Bill language.

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1 Q And what was the process of taking the map that
2 you were drawing and converting it into bill
3 language? What did that entail?
4 A I didn't know how to export the file, so I had
5 to --
6 Q The file being the map file?
7 A Correct.
8 Q Okay.
9 A So I had to go back to the RNC and ask them to
10 show me how to use the software to export the file
11 because the legislature was using autoBound, which
12 I couldn't figure out how to load, so there had to
13 be something done to it in order to make it
14 compatible with what the legislature apparently
15 was going to do to transfer it to their software.
16 So I had Mike Wild show me how to do that within
17 Maptitude.
18 Q So Mike Wild from the RNC showed you how to export
19 the map file?
20 A Correct.
21 Q And once the map file was exported, what did you
22 do with it?
23 A I e-mailed it to Eric McLeod.
24 Q And can you explain who Eric McLeod is?
25 A He's legal counsel for the legislature is my

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1 understanding.
2 Q And after you had e-mailed it to Eric McLeod, did
3 you have any more involvement in the process of
4 drafting the legislation or developing the
5 district boundaries?
6 A Once that file was sent to Eric McLeod, no.
7 Q So did you play any role in translating the map
8 into bill language?
9 A No. That was all done through the software.
10 Q So all you did was basically draw the map itself?
11 A Correct.
12 Q Okay. Rewinding a bit, we had talked before about
13 that fourth draft of the map in which you said you
14 had only made sort of I think one sort of
15 substantive change in the Third District and also
16 you made some very small changes to account for
17 the requirement of zero deviation.
18 Once those changes were made on this fourth
19 draft of the map, what was the next step of the
20 process? Was it transferring the file as you just
21 explained or did anything happen in between?
22 A I believe I started having communication -- I
23 started having communication about the legislative
24 process.
25 Q And these are the communications you talked about

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1 before with Mr. Ottman and Mr. Foltz?
2 A Correct.
3 Q Were there any other communications with members
4 of the Republican or Democratic congressional
5 delegation?
6 A I sent the final copies of the map as it was
7 submitted, not the bill language but the actual
8 geographic map, to each office and said basically,
9 Here is what we're going to be submitting. Here
10 is what we submitted to the legislature.
11 Q Actually if we could turn to Exhibit 43 -- Is
12 Exhibit 43 the documents you produced?
13 MR. SHRINER: Right.
14 Q Now if we could actually turn back to that first
15 e-mail which we had started talking about before.
16 The bottom e-mail is dated Friday, June 3rd, 2011.
17 This is from Erik Olson. It looks like it's his
18 Gmail account and it's to your Hotmail account?
19 A Correct.
20 Q And this says, "Hey Andy, Here is our counter.
21 Ron didn't get a chance to talk to Paul on the
22 floor before he headed to the airport so give me a
23 ring so I can explain our thinking." Can you
24 explain the context of this e-mail?
25 MS. LAZAR: For the record, this is

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1 Tab A.

2 MR. BROWN: Yes. Thank you. This

3 is the first e-mail behind Tab A.

4 A We had met with Representative Kind and Erik Olson

5 I believe it was the day prior --

6 MR. SHRINER: We being you and

7 Congressman Ryan?

8 THE WITNESS: Correct.

9 A And had said we'll, you know, give you a map if

10 you give us a map, because we hadn't received

11 anything from them up until that point on the 3rd.

12 So this was Erik sending me an actual map for the

13 first time.

14 Q And when he says "Here is our counter," is it your

15 understanding that he's saying this is sort of a

16 counterproposal to the map that you were in the

17 process of drafting?

18 A Correct.

19 Q And at this stage Erik Olson had seen one of the

20 drafts of the map that you were producing?

21 A Yes.

22 Q And that was the third draft as you had explained

23 previously?

24 A Correct.

25 Q And in response to this e-mail, it appears that

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1 you sent a response on Friday, June 3rd, and you

2 said, "Thanks Eric. I'll send our PDFs in a

3 couple minutes." Can you explain, what PDFs were

4 you referring to?

5 A The maps that we had shown them at the meeting the

6 day prior.

7 Q And so those maps hadn't -- You hadn't given them

8 copies of those maps?

9 A No, because I had told Erik, *I'll give you copies*

10 *of our maps once I get a copy of your map.*

11 Q And after you received this copy of his map, what

12 did you do with it?

13 A Opened it up and took a look at it, printed it.

14 Q And what was your reaction to it?

15 A I was glad to see they incorporated some of the

16 changes we had suggested in the maps we showed

17 them. If I recall correctly, his draft of the

18 map --

19 MR. SHRINER: You've got it there

20 in front of you, probably, what, B or C?

21 Q There are a few maps that follow this page --

22 MR. SHRINER: B. You've got it.

23 Q -- and also B has some other maps behind that,

24 Tab B.

25 A They had incorporated many of the changes to the

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1 counties in northeastern Wisconsin between the

2 Seventh and the Eighth. He essentially did the

3 same thing with the Fourth that we had done.

4 They had split Washington County between the

5 Fifth and the Sixth, which I knew wouldn't be

6 agreeable to Congressman Sensenbrenner. And then

7 in the Sixth, they didn't take Calumet County out

8 of the Sixth, which I knew would be a concern for

9 Congressman Ribble.

10 And then Ozaukee County was not included in

11 the Sixth, so I knew Congressman Petri would have

12 a concern about that.

13 It looked as though Congresswoman Moore would

14 be fine given the concerns she had expressed to

15 Congressman Ryan.

16 I wasn't sure about what they had done on the

17 south side of Milwaukee. As you can see, there is

18 sort of a pink area. I wasn't sure if those were

19 southern suburbs which were currently in the Fifth

20 or not.

21 As I said, the Fifth, given the split of

22 Washington County, would have been a concern.

23 The Second is essentially what ended up being

24 the map for the Act 44.

25 In the Third and the Seventh, obviously there

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1 had the most significant differences. They did

2 put St. Croix County in the Seventh. That had

3 previously been in the Third. That was something

4 we also had proposed.

5 In Portage and Wood Counties, they had made

6 somewhat of a change there but had also adopted

7 some of what we had done if I recall correctly

8 between Wood and Portage but not to the same

9 extent that we had.

10 Q And after reviewing this map, did you share it

11 with anyone?

12 A Yes, I did.

13 Q Who did you share it with?

14 A Congressman Ryan.

15 Q And did Congressman Ryan have any feedback on that

16 map?

17 A Yes. He recognized many of the same things I

18 recognized as being similar and then the

19 differences between the Third and the Seventh.

20 Q And after reviewing the map, did you make any

21 changes to the draft that you were developing

22 based on this map that the Democrats had

23 developed?

24 A Just the Fort McCoy change. In this map all of

25 Fort McCoy was in the Third and the map that I had

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1 shown to Representative Kind and Erik Olson the
2 day prior did not have Fort McCoy in the Third.
3 Q And other than that change to Fort McCoy, there
4 were no other changes that you made to the draft
5 map that you were developing based on this
6 proposal from the Democrats?
7 A No. It would have been hard to incorporate them
8 given that the map I was working off of was at
9 almost zero deviation and this still had some
10 significant deviations.
11 Q Were there any other reasons why you didn't
12 incorporate other changes from this map in the
13 version you were developing?
14 A Most of the changes were the same between this
15 draft and the draft we had shown them, with the
16 exception of the Third and the Seventh, and so
17 knowing that we had already gone through the
18 process of trying to incorporate what
19 Representative Moore, Representative Baldwin and
20 Representative Kind had asked for previously, we
21 made the decision that once the change had been
22 made and a fourth draft had been put together
23 reflecting the Fort McCoy change that we were
24 going to stay with that map.
25 Q And when you said we made the decision, who are

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1 you referring to?
2 A Congressman Ryan and myself.
3 Q Were there any other members of the delegation who
4 were involved in that decision?
5 A No.
6 Q If you'd continue to page ahead, this is still in
7 Exhibit 43, still behind Tab A, I believe the next
8 e-mail following the one that we were previously
9 discussing.
10 MR. SHRINER: All the way back to
11 the front, Andy.
12 Q The second page. Yes. This appears to be an
13 e-mail from you from your Hotmail account to
14 Erik Wilson -- I'm sorry, to Erik Olson dated
15 again June 3rd, 2011, and in this e-mail you say,
16 "Have a closer look. I did not forward any maps
17 to the Baldwin's office or Moore's office. Let me
18 know if you have additional thoughts and we can
19 catch-up on Monday. Talk to you then. Andy."
20 Can you explain what you're referring to when
21 you said "Have a closer look"?
22 A This was -- Once he had passed along his maps, I
23 sent him maps of each district with the changes
24 that they had requested. So basically it was, Now
25 that you've sent me your maps, here are our maps

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1 as well, as promised.
2 Q When you say "Have a closer look," closer than
3 what? Is this responding to a specific comment
4 that he had or a concern that he had about the
5 maps?
6 A The maps we had shown them in the meeting were
7 just hard copies and so you couldn't zoom in on
8 them at all.
9 Q Okay. So this just literally meant --
10 A Yes.
11 Q -- you could have a closer look.
12 A Yeah.
13 Q Great. And do you remember what feedback you got
14 from Erik Olson after he received these copies of
15 the maps?
16 A I don't.
17 Q If you'd turn ahead to the next e-mail, there are
18 a few maps attached to that e-mail which appear to
19 be -- there are a few maps that follow that e-mail
20 in this exhibit which appear to be attachments.
21 Then if you'd turn to the next e-mail, it's
22 again from you with the same date, Friday,
23 June 3rd, 2011 at 10:12 p.m. Can you explain who
24 the individuals this e-mail is addressed to are?
25 A Tom Schreiber is the chief of staff for

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1 Congressman Sensenbrenner. McKay Daniels is the
2 chief of staff for Congressman Ribble.
3 I should say Tom Schreiber is no longer the
4 chief of staff for Congressman Sensenbrenner.
5 Debbie Gebhardt is the chief of staff for
6 Congressman Petri, and Kirt Johnson was the chief
7 of staff for Congressman Duffy.
8 Q And in this e-mail you say, "FYI - This is what I
9 sent Kind's office," and you forward the e-mail
10 that we had previously discussed that you had sent
11 to Mr. Olson at 10:10 on Friday, June 3rd;
12 correct?
13 A Correct.
14 Q Why did you forward this on to the other chiefs of
15 staff?
16 A Because they didn't have the maps either.
17 Q And did you get any feedback from them after you
18 had forwarded these maps?
19 A Not that I recall.
20 Q And, again, these maps, is this the final version?
21 A Correct.
22 Q And this accounts for the changes that you made to
23 ensure zero deviation in all of the districts?
24 A No. I don't think so. Because, looking at this,
25 and I'm not sure -- I don't think this one

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1 reflects zero deviation. It reflects the change
2 to Fort McCoy, but given I'm seeing some lines
3 here that --
4 Q And "here" you're referring to?
5 A I don't know if it's just because of the small
6 resolution of the map, if it's not picking up that
7 there is just a slight dip here.
8 Q And, sorry, the slight dip you're referring to in
9 what county?
10 A Is in Juneau County. And then it looks like there
11 might be a similar section jutting out here in
12 Winnebago County. So I don't think this -- I
13 can't say for certain whether it reflects zero
14 deviation.
15 Q But the only changes that you might have made
16 after this were changes to account for zero
17 deviation that wouldn't have moved more than
18 20 people?
19 A Correct.
20 Q And again paging ahead, past the maps there is an
21 e-mail that says up at the top, "Conference call:
22 4:30 p.m. CT." This is from you. It's dated
23 Tuesday, June 14th, 2011, 2:53 p.m. Can you
24 explain the individuals to whom this is addressed?
25 A Yes. This is to Judi Rhodes who our office works

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1 with to schedule things with Senator Fitzgerald,
2 Tad Ottman --
3 MR. SHRINER: And we know who he
4 is. Go ahead.
5 A I believe it's Andrew Gustafson who our office
6 works with to schedule things with Speaker
7 Fitzgerald, and then Adam Foltz.
8 Q Uh-huh.
9 A Then in the Bcc it's Tom Schreiber and Sarah Peer.
10 Sarah Peer is the scheduler in our office.
11 Q And in this e-mail you say, "Thank you for being
12 available to participate in the call this
13 afternoon with the Speaker, the Majority Leader
14 and Congressman Ryan. The purpose of the call is
15 to get everyone on the same page as far as the
16 process and timing of the congressional
17 redistricting map is concerned."
18 What time did this call take place? I
19 believe it says at the top of this e-mail.
20 A 4:30 Central time/5:30 Eastern time.
21 Q And do you remember the substance of what was
22 discussed during this call?
23 A I did not participate in the call. It was
24 Congressman Ryan, the Speaker and the Majority
25 Leader only.

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1 Q Okay.
2 MR. BROWN: I was just told there
3 is only five minutes on the tape, so this
4 might be a good time to adjourn for lunch.
5 MR. SHRINER: Sure.
6 THE WITNESS: Sure.
7 MR. CAMPBELL: We are going off the
8 record concluding disk number one of the
9 deposition of Mr. Andrew Speth. The time is
10 12:45 p.m.
11 (Recess)
12 MR. CAMPBELL: We are on the
13 record. The time is 1:04 p.m. This marks
14 the beginning of disk number two of the
15 deposition of Mr. Andrew Speth.
16 Q Welcome back.
17 A Thanks.
18 Q Mr. Speth, when we were speaking previously, you
19 had talked about some principles that guided the
20 work you did in drafting the new congressional
21 districts based on the 2010 census, and among
22 those principles you mentioned fairness, you
23 mentioned bipartisanship, and you also mentioned
24 that there were legal principles that governed
25 what you did. And you mainly talked about the

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1 principle of zero deviation, but now I'd just like
2 to ask you about a few other legal principles to
3 find out the extent to which they guided your
4 work. Are you familiar with the concept of core
5 population retention?
6 A No.
7 Q Core population retention basically refers to --
8 it's a measure of how much of a district's
9 population is retained in the new district.
10 So, for example, if, you know, the core
11 population was -- if people who had previously
12 been in a district continue to be in that
13 district, that's what core population reflects,
14 the fact that people aren't changing from one
15 district to another.
16 Based on your experience as a staff member
17 for Representative Ryan, would you consider
18 retaining core population in a district to be an
19 important factor in the redistricting process?
20 A It wasn't one that I took into consideration.
21 Q Would you agree that many people rely on their
22 member of Congress for constituent services?
23 A It depends on what you mean by many.
24 Q But as a member of Congress, Representative Ryan
25 offers constituent services to his constituents?

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1 A Correct.
 2 Q And do constituents generally have an interest in
 3 knowing how their representative votes on
 4 legislation?
 5 A Some do.
 6 Q Do you think it's important for constituents to
 7 know who their congressperson is?
 8 A Yes.
 9 Q Over time do constituents tend to become more and
 10 more familiar with their member of Congress?
 11 A It depends on how long they serve.
 12 Q But the longer a congressperson serves, do people
 13 tend to become more familiar with that person?
 14 A Yes.
 15 Q And, likewise, would you find that the
 16 representative's knowledge of his or her
 17 constituents grows with time?
 18 A Yes.
 19 Q But core population was not a factor that you
 20 considered when you were redrawing these district
 21 boundaries?
 22 A No.
 23 MR. BROWN: I have here, this is a
 24 copy of the expert report of Erik Nordheim
 25 which I would like to mark as Exhibit 45.

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1 (Exhibit No. 45 marked for
 2 identification)
 3 Q Mr. Nordheim is a statistics professor at
 4 University of Wisconsin-Madison. He is an expert
 5 for the Intervenor-Plaintiffs in this matter.
 6 If you actually turn, the front of this
 7 report is basically an affidavit, but then if you
 8 flip to Exhibit B, that's where the report itself
 9 appears. It says Report of Erik Nordheim. This
 10 is Exhibit B to Deposition Exhibit 45.
 11 If you could actually turn to page 3 of the
 12 expert report. We're looking at Table 1 in the
 13 report. Can you read what it says on the top of
 14 the page?
 15 MR. SHRINER: I'm sure he can.
 16 What's the point of this? Could we establish
 17 whether he's ever seen it before or what's
 18 this about?
 19 Q Have you seen this before?
 20 A No.
 21 Q I will represent to you that this was, as I
 22 mentioned, an expert report that was submitted in
 23 this matter, and we're looking at this for the
 24 purpose of just relying on the figures that he has
 25 showing shifts in population from one district to

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1 another.
 2 So in Table 1 you can see there are four
 3 columns; correct?
 4 A Yes.
 5 Q And the first column lists each congressional
 6 district; correct?
 7 A Yes.
 8 Q And the second column lists the population for
 9 each of these districts based on the boundaries of
 10 the districts created in 2001; correct?
 11 A I wouldn't be able to confirm that, but I'll take
 12 his word for it.
 13 Q Okay. Yeah, we will assume for purposes of this
 14 discussion that the numbers themselves are
 15 accurate.
 16 And based on the label of the third column,
 17 that represents the population for each district
 18 using the new boundaries that were adopted in
 19 Act 44; correct?
 20 MR. SHRINER: If that's what you
 21 say it is, he'll accept it.
 22 Q Okay. And then the last column, that says net
 23 change. So that shows how the population of each
 24 district increased or decreased with Act 44;
 25 correct?

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1 A Correct, based on what you've said about the other
 2 columns.
 3 Q Right. So, for example, if you look at
 4 District 1, based on the net change column, this
 5 shows that with the new boundaries the population
 6 was reduced by about 17,000; correct?
 7 A Yes.
 8 Q And if you look at District 8, this shows you that
 9 with the new boundaries the population of that
 10 district increased by about 4,000; correct?
 11 A Yes.
 12 Q And if you look at the third column which shows
 13 the 2010 population for each of these districts as
 14 proposed in 2011, that shows you that the
 15 population for every district is either 710,873 or
 16 710,874; correct?
 17 A Yes.
 18 Q So this satisfies the principle of zero deviation;
 19 correct?
 20 A Yes. It's off by two, but, you know.
 21 Q Well, to the extent that it's possible.
 22 A Correct.
 23 Q Yes. And then -- and so the change, the
 24 population change reflected in the last column,
 25 the net change column, that change was a change

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1 that was necessary in order to bring the
2 population of each district -- to make the
3 population of each district equal; correct?
4 A Yes.
5 Q But would you also agree that net change doesn't
6 show us how many people changed districts?
7 A Yes.
8 Q Okay. So, for example, let's just imagine that
9 we're in a state in which the ideal population of
10 the congressional district is 1 million and
11 District X within this state has a population
12 before redistricting of 999,000, so that district
13 in this hypothetical state would have to increase
14 its population by 1,000 in order to hit the ideal
15 population of 1 million; correct?
16 A Correct.
17 Q Okay. And one way of doing that would be to shift
18 1,000 people into the district, and by doing that
19 you would increase the population enough to hit
20 the 1 million ideal population; right?
21 A Correct.
22 Q And another way of doing that would be by shifting
23 101,000 people into the district and then shifting
24 another 100,000 people out of the district. That
25 also would end up yielding a total population of

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1 1 million; correct?
2 A Correct.
3 Q And, you know, based on our discussion previously
4 about this concept of core population retention,
5 which one of those approaches would maintain more
6 of the core population of that district?
7 MR. SHRINER: You know, I'm going
8 to object to this line of questioning, and
9 you can ask him if you want to. He is not
10 appearing as an expert.
11 MR. BROWN: Right.
12 MR. SHRINER: He's never seen this
13 report before.
14 MR. BROWN: Right.
15 MR. SHRINER: You're asking him
16 hypothetical questions as if he were an
17 expert, and you're now asking him to give a
18 conclusion in terms of a concept that you've
19 explained to him for the first time today
20 which he told you earlier he did not -- had
21 not heard of, that is core population
22 retention. I think this is an abuse of the
23 process and a waste of his time, but go
24 ahead.
25 MR. BROWN: This is laying a

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1 foundation for questions that are to follow,
2 and this is to ensure that we have the same
3 understanding of the concept of core
4 population retention.
5 MR. SHRINER: Which, as I said
6 before, he told you previously he was not
7 familiar with. So I don't know why you ask a
8 witness things that he doesn't know about,
9 define things for him and then ask him to
10 define them back to you in those terms. I
11 think that's improper. This is a fact
12 witness.
13 MR. BROWN: Okay. Those objections
14 notwithstanding, actually can you read back
15 the question?
16 (The following question was read:
17 "Q. And, you know, based on our
18 discussion previously about this concept
19 of core population retention, which one of
20 those approaches would maintain more of
21 the core population of that district?")
22 A Based on what I heard two minutes ago, the first
23 scenario.
24 Q Okay. If you can actually turn two pages ahead in
25 this exhibit, this is Table 3, again in the expert

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1 report of Mr. Nordheim.
2 Reading from the top of Table 3, it says that
3 this table shows a tabulation of the total
4 population shifted "in to" and "out of" each
5 district.
6 Again, this chart has four columns. The
7 first column lists each of the congressional
8 districts and the last column lists "net shift
9 (in)." Looking at that "net shift (in)" column,
10 are those numbers -- those numbers are identical
11 to the net change numbers that we had previously
12 looked at in Table 1; correct?
13 A Yes.
14 Q Sorry, is that yes?
15 A Yes.
16 Q Okay. And then looking at the other two columns,
17 "shifted in to" and "shifted out of," I will
18 represent to you that these columns -- these
19 figures in these columns represent, under the
20 "shifted in to" column, the number of people who
21 were moved into each of these districts from other
22 districts, and the "shifted out of" column refers
23 to the number of people who were moved from each
24 of these districts into another district. So both
25 of these columns -- the numbers in both of these

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1 columns represent people who have changed
 2 congressional districts based on the new
 3 boundaries that were adopted in Act 44.
 4 If we look at the Third Congressional
 5 District on here, what's listed as the "net shift
 6 (in)" population?
 7 A 19,084.
 8 Q And the "net shift (in)" is negative 19,084;
 9 correct?
 10 A Yes.
 11 Q And can you also read out the number of people who
 12 were shifted into the district?
 13 A For the Third?
 14 Q For the Third District.
 15 A Shifted in to?
 16 Q Yes.
 17 A 171,270.
 18 Q Okay. And the number of people who were shifted
 19 out of District 3?
 20 A 190,354.
 21 Q Would you be able to articulate, you know, why for
 22 District 3 so many people had to be moved in to
 23 and out of the district?
 24 A We made changes based on feedback we received from
 25 Congressman Duffy, and some of that was obviously

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1 implemented to reflect those changes. Some of
 2 those same changes were reflected in the map that
 3 Congressman Kind and Erik Olson forwarded to us as
 4 well.
 5 Q And what were those -- And I know we had discussed
 6 this previously, but what specifically was the
 7 feedback that Congressman Duffy had offered that
 8 resulted in these large shifts of people in to and
 9 out of the Third District?
 10 A That he had a preference that the district become
 11 more Republican because it was a Democrat
 12 district.
 13 Q Were there any other factors that led to these
 14 large shifts in population for the Third District?
 15 A We knew that one of our principles was to be fair,
 16 and if we were going to improve Congressman
 17 Duffy's district, it was only fair we improve
 18 Congressman Kind's district, so we swapped
 19 counties that resulted in that happening.
 20 Q And were there any other principles or any other
 21 reasons that motivated these shifts of people?
 22 A To reach zero deviation.
 23 Q Okay. And you had mentioned that, you know,
 24 Congressman Duffy had specifically made this
 25 request and that this request also had a

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1 comparable -- made a comparable change assisting
 2 Representative Kind in terms of their, you know,
 3 political chances for retaining their seats. Did
 4 Representative Kind also request a change to
 5 improve his chances at reelection?
 6 A The map they submitted to us included the change
 7 we made in St. Croix County which took a
 8 Republican county out of the Third and put it into
 9 the Seventh. So based on that, I would say yes.
 10 Q But aside from those changes that were in that
 11 map, there wasn't any other, you know, request
 12 that you received from Representative Kind?
 13 A No. He included -- Portage County was in the
 14 Seventh before, and I believe in his map he put it
 15 into the Third as well. It was either Portage or
 16 Wood. One of those counties he kept as well,
 17 which were the more Democrat leaning counties.
 18 Q And at the time that Representative Kind had
 19 provided that map, that was simply -- that was
 20 also actually reflecting, you know, the way the
 21 draft of the map that you had developed had drawn
 22 those counties; correct?
 23 A It was my understanding that that was their
 24 counter so it was -- it led me to believe this is
 25 what they would do if they could do whatever they

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1 wanted.
 2 Q Okay. Turning to District 5 -- And we're going to
 3 basically engage in this same exercise with
 4 respect to Districts 5, 6 and 7. Actually we
 5 might as well just sort of skip ahead to
 6 District 7 since we're already talking about this.
 7 The net shift in for District 7 according to this
 8 exhibit, can you read that?
 9 A 21,594.
 10 Q And the number of people who were shifted in to
 11 the district?
 12 A 171,989.
 13 Q And the number that were shifted out of the
 14 district?
 15 A 151,395.
 16 Q And aside from the reasons that you were just
 17 discussing with respect to the Third District,
 18 which also affect the Seventh District, were there
 19 any other reasons for shifting this number of
 20 people in to and out of the district to achieve a
 21 net shift of about 21,500 people?
 22 A Just to again create that fair balance of if there
 23 is going to be improvements made on a political
 24 level to the Seventh, equal improvements we should
 25 try and make to the Eighth Congressional -- or,

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1 I'm sorry, the Third Congressional District.
 2 Q And were there any other reasons for these shifts
 3 in population?
 4 A To reach zero deviation.
 5 Q And anything else?
 6 A No.
 7 Q Okay. And now turning to District 5, if you could
 8 read the net shift in. How many people were
 9 shifted in to the district?
 10 A The net shift in for District 5 is 3,293.
 11 Q And the number of people who were --
 12 MR. SHRINER: What is the point of
 13 having him read numbers off a chart? It's
 14 right in front of all of us. You do what you
 15 want, but if you want to ask him a question,
 16 ask him a question. We can all see those
 17 numbers.
 18 MR. BROWN: So they're in the
 19 record without having to resort to the
 20 exhibit itself, that's the reason why I'm
 21 asking him to read them in. I can read them
 22 myself.
 23 MR. SHRINER: Why don't you. That
 24 would be quicker. Thank you.
 25 MR. BROWN: Okay.

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1 Q The net shift in, it would be 3,293 people.
 2 Again, this is with respect to the Fifth District.
 3 The number of people shifted in to that district
 4 was 177,822, and then the number of people shifted
 5 out of the district is 174,529.
 6 Again, same as before, were there specific
 7 reasons for shifting these large numbers of people
 8 to affect a net shift of a little more than 3,000
 9 people?
 10 A Because Congresswoman Baldwin had mentioned that
 11 she preferred not to have great commuting
 12 distances so she could be more accessible
 13 throughout her district in a given day,
 14 Jefferson County was added to the Fifth and
 15 that then created a domino effect with the
 16 Sixth District because of the need to keep
 17 Washington County whole per the request of
 18 Congressman Sensenbrenner.
 19 Q Were there any other reasons for the shift in
 20 population in the Fifth District?
 21 A Well, parts of Ozaukee County were taken out, so
 22 if you take those parts that were taken out to
 23 keep the Sixth District in more political balance,
 24 that resulted in obviously a shift because those
 25 people were previously residing in the Fifth

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1 District and now were in the Sixth.
 2 Q And any other reasons for these shifts in the
 3 Fifth District?
 4 A To achieve the zero deviation.
 5 Q And anything else?
 6 A Not that I can think of.
 7 Q Okay. And finally, just looking at the Sixth
 8 District, for which the net shift in was 5,771,
 9 that's based on a shift in to the district of
 10 144,923 and a shift out of the district of
 11 139,152. What were the reasons for shifting those
 12 populations?
 13 A Because Congressman Ribble asked if we could
 14 keep -- or put Calumet County into the Eighth
 15 Congressional District, that removed population
 16 from the Sixth, and then as a result of that loss
 17 of population from the Sixth, we had to add to
 18 the Sixth so there were more western areas added
 19 to the Sixth, and then again that change with
 20 Ozaukee County.
 21 Q Okay. And aside from zero deviation, were there
 22 any other reasons for making these shifts in
 23 population?
 24 A Not that I recall.
 25 Q Okay. Thank you. And I just wanted to hit on the

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1 two other principles that may or may not have
 2 played a role in your redrawing of the boundaries.
 3 One of them is the idea of compactness. Is
 4 that a concept that you're at all familiar with
 5 for redistricting?
 6 A Yes.
 7 Q And can you explain in your own words what
 8 compactness refers to?
 9 A To basically keep districts to, you know, as much
 10 a size -- not to spread them out too much. There
 11 is an example I saw of in Illinois, there is a
 12 district called the jackrabbit on the skateboard
 13 that curves around and down and across the state
 14 of Illinois, and that wouldn't necessarily be
 15 considered compact in some people's opinion but it
 16 depends. You know, but compactness is basically
 17 to try to, as much as you can, keep a district
 18 intact.
 19 Q And when did you first learn about this concept of
 20 compactness?
 21 A I think early on in the process, maybe April.
 22 Q And do you recall how you learned about this?
 23 A I think I was reading about it in one of the
 24 IL Regs about other states and their redistricting
 25 processes.

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1 Q And do you remember what you learned from that?

2 A I just remember there were arguments over what

3 constituted compactness.

4 Q And were there any other sources that you relied

5 on to educate yourself about compactness for

6 congressional districts or other districts?

7 A Not compactness, no.

8 Q Was compactness a factor that played any role in

9 your drawing of these districts?

10 A No.

11 Q And finally, moving on to the concept of

12 communities of interest, is that a concept that

13 you're familiar with in the redistricting

14 concept --

15 A Yes.

16 Q -- context. And can you explain the idea of --

17 the notion of communities of interest and how

18 communities of interest are to be treated under

19 traditional redistricting principles?

20 A This dates back to when I worked in the State

21 Legislature and they talked about it following the

22 redistricting that would have happened in the

23 '90s, beginning of the 1990s. I remember

24 conversations with people talking about -- I had

25 just come into the legislature, about communities

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1 of interest with the state legislative maps.

2 Q And do you remember, you know, what was said about

3 communities of interest and was it defined in any

4 way?

5 A That you tried not to split up, you know, cities

6 between districts. Municipalities, counties,

7 things like that, try not to split them.

8 Q And can communities of interest, I mean to your

9 knowledge, refer to anything aside from political

10 boundaries like cities, counties, other

11 municipalities?

12 A No. It was my understanding that all of those

13 hard and fast -- you know, you didn't want to

14 divide up the city of Janesville into three parts

15 if you're looking at southern Wisconsin. You

16 didn't want to divide up other counties between

17 multiple districts if you could prevent it.

18 Q So was the preservation of communities of

19 interest, one, a factor that you considered when

20 you were drawing the maps?

21 A To a certain -- sorry. To a certain extent.

22 Q How would you rank that compared to other factors

23 that you considered?

24 A Well, after legal, fair, bipartisan, trying to

25 make everybody happy, five or six.

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1 Q What information did you rely on to determine

2 whether or not communities of interest would be

3 split in the maps you were drafting?

4 A Just as I was drawing, I would try and avoid

5 splitting things.

6 Q So you were looking at the actual political

7 boundaries on a map and making sure that they were

8 intact to the extent possible?

9 A Correct. As I looked at the map, I followed the

10 county lines and then next municipal lines.

11 Q Were there many examples where you felt you had to

12 split communities of interest?

13 A No. I think -- I recall, and it's one of the

14 other documents, where I did a side-by-side

15 comparison of, you know, how many did we split

16 last time, how many are we splitting this time

17 from a county standpoint, and then likewise from a

18 municipal standpoint, how many cities did we

19 split -- or how many municipalities did we split

20 last time, how many did we split this time.

21 MR. BROWN: Okay. Thank you. I

22 think if it's all right with everybody we'll

23 take a break now for lunch. I think lunch

24 has arrived at last.

25 MR. CAMPBELL: The time is 1:29.

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1 We are going off the record.

2 (Lunch recess)

3 (Ms. Boynton exited the

4 proceedings)

5 MR. CAMPBELL: The time is 2:10.

6 We are back on the record.

7 Q Mr. Speth, earlier we were looking at Exhibit 43

8 which were the documents that you had produced for

9 this deposition, and behind Tab A specifically

10 were the e-mails that you had produced. I just

11 wanted to resume looking at a couple of those

12 e-mails.

13 We're actually going to start off again with

14 the next e-mail after the last one we had talked

15 about. This e-mail has the subject heading

16 Timeline. It's from you and it was sent on

17 June 15th, 2011. Do you have that e-mail in front

18 of you?

19 A I do.

20 Q And we've discussed these people before, but just

21 as a refresher, can you explain -- list the people

22 that this e-mail was sent to and explain who they

23 are?

24 A Sure. This is the same list of people that I sent

25 the request for a conference call to. Judi

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1 Rhodes, who we work with to schedule things with
2 Senator Fitzgerald.
3 Q So she works for Senator Fitzgerald?
4 A That's my understanding. Tad Ottman, who did the
5 Senate redistricting; Andy Gustafson who we
6 scheduled through with Speaker Fitzgerald; and
7 Adam Foltz who was the Assembly redistricting
8 aide; and then below Congressman Ryan and then
9 Tom Schreibel.
10 Q And Congressman Ryan and Tom Schreibel were blind
11 copied; correct?
12 A Correct, correct.
13 Q Looking at the body of the e-mail, about halfway
14 through you write, "If you can give me advance
15 notice as to when the bill will be introduced and
16 also when it will be scheduled for votes, I'd
17 really appreciate it so that I can brief our
18 Members and their staffs in preparation for
19 dealing with media inquiries. To aid your
20 efforts, tomorrow, I will forward to each of you
21 talking points in support of the congressional
22 plan." Do you remember writing this e-mail?
23 A Yes.
24 Q And did you, in fact, forward talking points to
25 these individuals?

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1 A Yes. That is an e-mail I sent on June the 21st
2 that's, let's see, if you page through four more.
3 Q And again we're still looking at Exhibit 43 behind
4 Tab A.
5 MR. SHRINER: Correct.
6 Q And this e-mail, this was from you. You said --
7 It's dated June 21st, 2011, 6:31 p.m., and it's
8 again to Tad Ottman and to Adam Foltz; correct?
9 A Correct.
10 Q If you look down at the fifth talking point, can
11 you read that out loud?
12 A Yes. "The proposed map keeps the current
13 political make-up of the districts intact. The
14 seven districts won by President Obama remain
15 Democrat districts and the one district won by
16 Senator McCain remains Republican."
17 Q Can you explain what you mean when you say that
18 the seven districts won by President Obama remain
19 Democratic districts?
20 A All right. There were -- Seven out of the eight
21 districts were won by President Obama in 2008
22 based on the drawing of the map that was
23 eventually enacted as Act 44, and there was one
24 district, the Fifth Congressional District, which
25 was won by Senator McCain.

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1 Q And what statistics or figures did you rely on to
2 make that calculation?
3 A The presidential election results from 2008.
4 Q And did you rely on anybody else to crunch the
5 numbers so that they corresponded to the districts
6 as you had drawn them or was that something you
7 were able to do yourself?
8 A That's something I did myself and spent the better
9 part of a month doing.
10 Q Were there any other figures based on election
11 returns, whether they be presidential, as you had
12 mentioned, or congressional or senate elections,
13 were there any other figures from other elections
14 that you considered when you were drawing these
15 maps?
16 A Yes. The statewide races from 2010 and then the
17 presidential election from 2008. I also had data
18 in there from the previous congressional races in
19 2010.
20 Q And did you perform calculations to determine,
21 specifically for the congressional races, based on
22 the most recent races, what the political make-up
23 of the redrawn districts under Act 44 would be?
24 A Yes.
25 Q And what did you come up with?

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1 A It's in the other documents I submitted.
2 Q If you -- I mean all of them are -- or are they
3 documents from the CD?
4 A Correct.
5 Q Okay.
6 MR. SHRINER: Tell him what they
7 said.
8 A There is a spreadsheet in there that I gave to
9 each of the members that showed how different
10 candidates performed in their district.
11 Senator McCain, the presidential race, versus
12 Senator Obama at the time; Scott Walker and
13 Tom Barrett's race for governor; the attorney
14 general's race; and there was one other. I can't
15 recall what it is, but it's listed on each of
16 those documents.
17 MR. SHRINER: Johnson?
18 THE WITNESS: I don't think it was
19 the senate race. I would have to look at
20 that document again to remember what the
21 fourth race was.
22 Q And do you recall, you know, based on those races
23 what the composition of these eight districts
24 would be? In terms of political affiliation which
25 way they would lean, Republican or Democrat?

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1 A Yes.
 2 Q And can you explain from memory? And I understand
 3 you don't have those figures in front of you.
 4 A Each of the -- I don't remember for each of those
 5 four races, but I know for the presidential race
 6 out of those four, based on this talking point. I
 7 believe for the race for governor it was similar,
 8 that it was seven and one. I can't recall for the
 9 attorney general's race or the other race or races
 10 that I had on there.
 11 Q And was it again you who did the number
 12 crunching --
 13 A Yes.
 14 Q -- to figure that out with respect to all of these
 15 races?
 16 A Correct.
 17 Q Do you know if Mr. Ottman or Mr. Foltz ended up
 18 using any of these talking points in terms of
 19 discussing this legislation with the media or
 20 advising the legislators for whom they were
 21 working?
 22 A I do not know.
 23 Q If we can move ahead. Actually behind Tab D, we
 24 had discussed this previously. This is the
 25 training guide, Maptitude for Redistricting.

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1 Again we're in Exhibit 43 behind Tab D.
 2 If you'd flip ahead to page 30, it says under
 3 the heading Communities of Interest, I'll just
 4 read aloud from the document, "You might wish to
 5 keep a city, a neighborhood, or some other
 6 community of interest together in the same
 7 district. Therefore, in addition to locking
 8 districts, you can lock any arbitrary geographic
 9 area. Once locked, you can specify that the area
 10 not be reassigned to another district or, if a
 11 portion of the area is reassigned, then the entire
 12 area should be reassigned.
 13 "You identify a community of interest by
 14 creating a named selection set using the standard
 15 Maptitude selection tools. In most instances you
 16 create a community of interest by selecting areas
 17 in the base layer of the plan."
 18 Was this communities of interest tool in the
 19 Maptitude software something that you relied on at
 20 any point?
 21 A No.
 22 MR. BROWN: I'd like to mark as
 23 Exhibit 46 a number of newspaper articles.
 24 (Exhibit No. 46 marked for
 25 identification)

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1 Q The first newspaper story -- There are three
 2 newspaper stories clipped together here. The
 3 first has the headline "Errors in redistricting
 4 process could affect thousands of voters." This
 5 appeared in the Wisconsin State Journal, according
 6 to this, on January 11th, 2012.
 7 The second story has the headline "Glitch
 8 puts some Wisconsin voters in Africa. Clerks
 9 scrambling to get voters in right districts before
 10 primary." This is from the Milwaukee Journal
 11 Sentinel, and it's dated January 11th, 2012.
 12 And the last story is again from the Journal
 13 Sentinel. It's dated January 13th, 2012, and it
 14 has a headline "Redistricting problem means
 15 thousands are listed in wrong district." Have you
 16 seen any of these articles before?
 17 A I saw the second one.
 18 Q Do you remember enough of that story to be able to
 19 discuss it or would you rather skim through it
 20 before I ask any questions about the subject
 21 matter of this story?
 22 A I should skim through.
 23 Q No problem.
 24 MR. SHRINER: You can read it.
 25 MR. BROWN: Take your time.

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1 Q In your own words, can you describe the issues
 2 with the redistricting process that this article
 3 describes?
 4 MR. SHRINER: I'm going to object
 5 to the form of the question. The witness
 6 says he read this article in the paper.
 7 You've had him read it again. He's not the
 8 source of it.
 9 Are you giving him a comprehension test
 10 on what he just read? I mean, he's a fact
 11 witness. Do you have questions for him of
 12 fact?
 13 MR. BROWN: Okay. I will skip that
 14 question.
 15 Q Reading from the top of the second page of the
 16 article, under the heading "Different approach" it
 17 says, "In past decades, lawmakers waited for local
 18 officials to draw their lines and then built
 19 legislative maps along those ward lines. But this
 20 time, Republicans who control the Legislature drew
 21 the state maps first, using U.S. census blocks."
 22 When you were working on the redistricting
 23 process, were you aware that reliance on census
 24 blocks was different than the process that had
 25 been used in previous years for redistricting?

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1 A No, I wasn't. I knew that they were doing things
2 differently, but my understanding was it only
3 affected the state legislative districts.
4 Q And on what did you base that understanding?
5 A Newspapers, reports that I read.
6 Q And can you recall what specifically those
7 newspaper reports that you had read had said?
8 A No.
9 Q Do you remember, did they relate to the
10 Legislature's decision to start the redistricting
11 process before the municipalities had drawn wards?
12 A Yes.
13 Q When you were developing the draft maps that ended
14 up becoming Act 44, did you have any awareness
15 that the reliance on census blocks rather than
16 wards could result in errors of any kind in the
17 data or the maps?
18 A No.
19 Q Have you seen -- Now that this issue has come to
20 light, have you seen any analysis of the issue?
21 A No.
22 Q Has anyone discussed the issue with you?
23 A No.
24 Q So your only knowledge of it is based on having
25 read this newspaper story?

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1 A Correct.
2 Q And were there other newspaper articles that you
3 read about this issue or did you hear about it
4 otherwise in the media?
5 A No, just the story, the second story.
6 Q Do you have any idea if these issues will affect
7 the boundaries of the congressional districts that
8 appear in Act 44?
9 A I do not.
10 Q Would you agree that the districts should be as
11 accurate as possible?
12 A Yes.
13 MR. BROWN: That actually concludes
14 my questions for you for today. Should we
15 take a break so that we can --
16 MR. CAMPBELL: The time is 2:25.
17 We are going off the record.
18 (Recess)
19 (Exhibit No. 47 marked for
20 identification)
21 MR. CAMPBELL: The time it 2:36.
22 We are back on the record.
23 EXAMINATION
24 By Mr. Hassett:
25 Q Mr. Speth, are you familiar with David Obey?

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1 A Yes.
2 Q Have you ever met him?
3 A Once.
4 Q So you haven't had a chance to work with him at
5 all then?
6 A No.
7 Q What is your opinion of him?
8 A Politically? Personally?
9 Q Both.
10 A He's a man of his convictions and a dedicated
11 Wisconsinite. I think he looks out for Wisconsin
12 and he's proud of his service in Wisconsin, as he
13 should be.
14 Q He's well-respected in his profession?
15 A Yes.
16 Q And you've had a chance to read what we have
17 marked as Exhibit 47, I believe?
18 A Yes.
19 Q And that is an Affidavit of David Obey. And I
20 just wanted to direct you to several portions of
21 that.

MR. HASSETT: I'm sorry. That one
has upside down stapling in it.

MR. OLSON: That's the one I did.

MR. HASSETT: I know.

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1 MR. SHRINER: Have you got one I
2 can look at?
3 MR. OLSON: Yes. It does have
4 upside down stapling.
5 MR. SHRINER: I don't much care.
6 Q Well, let's start out with paragraph 12 on the
7 third page of that, of the exhibit. In
8 paragraph 12, Mr. Obey discusses Marathon, Portage
9 and Wood Counties, and in the second sentence he
10 says, "Since I represented the Seventh
11 Congressional District until January, 2011 I am
12 intimately familiar with those three counties and
13 nothing has changed since the 2000 census that
14 would even suggest any lessening of community of
15 interest that would justify separating those
16 counties."
17 Do you agree with that, in terms of his
18 statement that nothing has changed since the 2000
19 census?
20 MR. SHRINER: I'm going to object.
21 Lack of foundation.
22 Q Have you read that?
23 A I read that sentence.
24 Q Okay. Do you agree with what Mr. Obey says in the
25 second sentence?

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1 A I did not consider those three counties to be
2 communities of interest.
3 Q Okay. Did you give that some thought?
4 A No.
5 Q Okay. So I just want to be clear. When you say
6 you did not consider them to be communities of
7 interest, a shared community of interest, you mean
8 you didn't even give it any thought or you
9 considered it and disagreed that there was a
10 community of interest?
11 A My mind-set was, as I was drawing maps, that
12 communities of interest were individual
13 municipalities and counties. I didn't look at
14 multiple counties as being communities of
15 interest.
16 Q Were you familiar with the concept of communities
17 of interest as it related to cultural or economic
18 factors?
19 A No. I looked at it from geographic boundaries.
20 Q Okay. So are you familiar with the term
21 ruralplex, for instance?
22 A No. Not until I read it in this document.
23 Q Until you read this today, okay. You would agree
24 that Marathon, Wood and Portage County have
25 essentially been part of the same congressional

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1 district for at least 80 years as set forth in
2 paragraph 14 of that exhibit?
3 A I wasn't aware that they had been in the same
4 congressional district for 80 years.
5 Q Okay. How long a period of time were you aware
6 that they had been in the same district?
7 A The ten years prior to the most recent
8 redistricting.
9 Q Did you review any maps prior to that, prior to
10 the year 2000?
11 A No.
12 Q Okay. In paragraph 16 Mr. Obey says, "Another
13 important consideration is to uproot the smallest
14 number of constituents from one district to
15 another consistent with the needs of equal
16 representation." Do you agree with that?
17 A It wasn't one of the primary factors I used in
18 decisions.
19 Q And why is that?
20 A My primary ones were: One, make sure zero
21 deviation was achieved; two, make sure the map is
22 fair, that we're not changing districts from one
23 to another category, meaning if a district was
24 typically Republican, we wouldn't flip it to a
25 Democrat district, that we wouldn't combine

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1 incumbents in the same districts; and then the
2 third factor in my prioritization list was try and
3 do things that will make the map bipartisan. And
4 then after that it was try and reach an agreement
5 amongst the members of the delegation on a map
6 that would have buy-in from most of them.
7 Q So those factors all had a higher priority than
8 moving -- or trying to minimize the movement of
9 individual numbers?
10 A Yes.
11 Q And how did you arrive at that particular
12 priority, those five considerations you just gave
13 me?
14 A In speaking with Congressman Ryan.
15 Q Okay. Did you have any discussions about
16 communities of interest with Congressman Ryan?
17 A We did not.
18 Q Okay. And by that do you mean either political
19 boundaries or cultural and economic boundaries?
20 A If by political you mean geographic, yes.
21 Q Okay.
22 A We did.
23 Q So Congressman Ryan was working with the
24 definition of political geographic boundaries --
25 A Right.

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1 Q -- in terms of community of interest?
2 A Along the lines of counties and municipalities
3 were what we considered communities of interest.
4 Q Well, you earlier had testified about the concerns
5 of Congressman Kind in keeping the Third District
6 related to the Mississippi River. Did you
7 consider that to be a significant concern?
8 A I didn't consider it a significant one but
9 Congressman Ryan said that we should make sure we
10 try and be fair, and if that's the perception that
11 Congressman Kind had, then we should follow
12 through with that.
13 Q And in central Wisconsin we have the
14 Wisconsin River flowing through a good portion
15 of the Seventh District; correct?
16 A After reading this, I'm aware of that.
17 Q Okay. You were not before that?
18 A No.
19 Q So you didn't give the Wisconsin River watershed
20 any consideration in your redistricting efforts?
21 A I did not.
22 Q Now, you testified earlier about -- or you were
23 asked earlier, I should say, about the numbers
24 that had to be moved from one district to another;
25 correct?

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1 A Yes.

2 Q And I think the Third District had to lose, after

3 the 2010 census, approximately 19,000; correct?

4 MR. SHRINER: Why don't we pull it.

5 I can find the page here in the professor's

6 data.

7 Q Well, I would purport to you that it was 19,084.

8 MR. SHRINER: That's fine. If you

9 want the numbers, I can find it.

10 Q And the Seventh needed to add 21,594, if you would

11 take my word for it.

12 A I'll take your word for it.

13 Q So this could have been resolved by moving

14 approximately 20,000 individuals from the Third to

15 the Seventh; correct?

16 A Yes.

17 Q Okay. Now, are you familiar at all with the

18 population of Clark County?

19 A I am not.

20 Q Okay. Well, I'll purport to you that it's

21 approximately 34,000, and it was divided between

22 the Third and the Seventh, as you know.

23 MR. SHRINER: In 2001?

24 MR. OLSON: Yes.

25 MR. HASSETT: In 2010.

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1 MR. OLSON: No.

2 MR. SHRINER: I just didn't

3 understand the question you were asking.

4 MR. HASSETT: I'm sorry. In 2001,

5 yes, yes.

6 Q And you could have added all of the population of

7 Clark County to the Seventh and probably achieved

8 your needs of zero deviation; correct?

9 A If the numbers you're suggesting --

10 Q I gave you are correct?

11 A Yeah.

12 Q Yeah. Did you consider doing that?

13 A No.

14 Q And why not?

15 A Because when we began the discussions, we talked

16 about making Congressman Duffy's district closer

17 to being a Republican district because it was

18 currently a Democrat district, and to do that, we

19 thought the fair thing would be if one district is

20 going to become more Republican, another district

21 should become more Democrat, and therefore changes

22 such as St. Croix County moving from the Third to

23 the Seventh was done, and then similarly changes

24 to Portage and Wood County.

25 Q Okay. And in the Eighth District -- let me back

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1 up. Referring you to paragraph 19 of Mr. Obey's

2 affidavit, section c., it would have been -- he

3 states that it would have been -- "only be

4 necessary to add about 4,000 people to achieve the

5 target population and maintain the district

6 boundaries agreed to in 2002 by the bipartisan

7 Wisconsin Congressional Delegation. Instead, the

8 new boundaries unnecessarily moved more than

9 80,000 people." Do you agree with that?

10 A I'll take your word for it that those numbers are

11 accurate.

12 Q Yes. Okay.

13 MR. SHRINER: You're not agreeing

14 that it was unnecessary?

15 A Oh. Well, what happened was we moved Calumet

16 County into the Eighth because Congressman Ribble

17 had property there that he wanted included in the

18 Eighth District. So that ended up being a

19 significant change beyond 4,000 people.

20 Q What kind of property was this? Was this his

21 home?

22 A Correct.

23 Q Okay. Directing your attention to paragraph 21 on

24 the following page, Mr. Obey states that "It's

25 very important for Districts to be compact and the

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1 bipartisan Wisconsin delegations have always

2 strived to honor this consideration." Do you

3 agree with that?

4 A I wasn't part of the discussions prior to this

5 redistricting process, so it would be hard for me

6 to say if that was the standard that the

7 delegations always strived for.

8 Q Well then looking at paragraph 22 he says,

9 "Compactness reduces travel time before elections,

10 during campaigns and after campaigns in performing

11 representational duties to make candidates and

12 representatives more accessible to constituents."

13 Would you agree with that?

14 A Yes.

15 Q Okay. And do you agree with the next paragraph,

16 23, as it relates to media markets?

17 MR. SHRINER: That's a long

18 paragraph and some of it relates to specific

19 aspects of the Third and Seventh District

20 that I'm not sure you've laid a foundation

21 that the witness would know anything about.

22 Which part are you asking him about, the

23 whole thing?

24 Q Let me just ask you about the part that is on that

25 page and the sentence that runs into the following

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1 page. Would you agree with that?

2 MR. SHRINER: Just 23?

3 MR. HASSETT: Yeah, 23.

4 MR. SHRINER: Just down to the

5 bottom of the page, Andy.

6 Q Bottom of the page.

7 A Yes.

8 Q Okay. Did you consider media markets in

9 redistricting?

10 A I did not.

11 Q Okay. Not in any of the districts anywhere, you

12 never took that into account?

13 A No.

14 Q Did it ever come up in any conversations with

15 anybody that you dealt with, such as

16 Congressman Ryan?

17 A Not with Congressman Ryan, but now

18 Congressman Ribble did mention that it would

19 change his district, moving east.

20 Q Would you explain that, please?

21 A He just mentioned that he -- I believe he said he

22 wouldn't have to -- I think Rhinelander has a TV

23 station, he said?

24 Q Yes.

25 A And because that he would no longer represent

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1 those counties that Rhinelander TV wouldn't apply

2 to him.

3 Q Any other discussions of media markets with any of

4 the congressional representatives or their

5 staffers?

6 A I remember telling it was either Congressman

7 Ribble or his chief of staff that they should be

8 thankful they don't have our district because we

9 have four TV markets, Rockford, Madison, Milwaukee

10 and Chicago.

11 Q You don't recall any discussions of the TV markets

12 in the Twin Cities, Eau Claire or Wausau?

13 A I don't.

14 Q Do you recognize the fact that the Twin Cities

15 media market is much -- relatively much more

16 expensive than the other markets in that area,

17 such as La Crosse or Rhinelander or Wausau?

18 MR. SHRINER: Are you asking him

19 whether he knows or whether he would agree

20 that that's likely?

21 Q Yeah, do you know?

22 A I guess now that you pose the question to me, if

23 you're asking me do I think that media in the

24 Twin Cities is more expensive than Wausau or --

25 Q Yes.

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1 A Yes would be my answer.

2 Q And as a result of this redistricting, do you

3 agree that it would make it more likely that a

4 Seventh District candidate would have to purchase

5 Twin Cities media?

6 A Well, it would depend. I don't know where the

7 media circle is for the Twin Cities. Does it

8 extend out to Barron County and Washburn? Because

9 those were in the Seventh District before.

10 I think the only -- The question would be

11 St. Croix, I guess. I imagine people in

12 Eau Claire may even be able to watch Minneapolis

13 TV, because in our district, the first district,

14 we have people in Pleasant Prairie and Kenosha who

15 watch Chicago TV. They don't watch Milwaukee TV.

16 We've got people in Janesville who watch Rockford

17 TV but they don't watch Madison TV. We've got

18 some who watch Madison TV but not Rockford TV.

19 Q You don't have specific knowledge then of where

20 exactly the Twin Cities market extends to?

21 A Correct.

22 Q And it's not something you took into consideration

23 in any event?

24 A No.

25 Q Okay. And we discussed community of interest, and

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1 in your responses earlier concerning the Maptitude

2 program, you didn't use the community of interest

3 application, if that's the right term, even for

4 political boundaries?

5 A Correct.

6 Q Okay. And if you look at paragraph 30 in the

7 affidavit concerning the Wisconsin River and what

8 Mr. Obey purports to be the community of interest

9 tied together by the Wisconsin River, is it fair

10 to say that did not enter into your consideration

11 at all in redistricting, any of those factors in

12 paragraph 30 a. and b. through i.?

13 A That's correct. I did not take the

14 Wisconsin River into consideration when making

15 decisions about where lines should be drawn.

16 Q Okay. And looking at paragraph 31, these are

17 different factors that Mr. Obey listed not

18 relating to the river but to other factors a.

19 through g., and would you read through those and

20 tell me if any of those entered your consideration

21 in redistricting.

22 A None of those did.

23 Q Okay. In 2011 do you believe there was any reason

24 to change any congressional boundaries due to

25 compactness?

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1 A No.

2 MR. SHRINER: Object to the form of

3 the question. I'm sorry, I don't know what

4 you're asking.

5 Q Okay. In the 2011 redistricting efforts you were

6 involved in.

7 A Is your question did I change districts based on

8 compactness?

9 Q Yes.

10 A No.

11 Q And you didn't change any districts based on

12 community of interest?

13 MR. SHRINER: Not as you've defined

14 it, correct?

15 A Communities of interest under our understanding

16 was individual counties and municipalities.

17 Going back to your previous question about

18 considering compactness, if compactness means

19 Congresswoman Baldwin preferred not to have to

20 commute all the way over to Jefferson County, then

21 yes. If Congressman Petri commuting to the

22 western edge of his district, then yes.

23 Q Okay.

24 A If commuting distances is part of compactness.

25 Q All right. Did you take any compactness issues

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1 into consideration in the Seventh District which

2 now runs much further east?

3 A Only to the -- Not to the east but to the south,

4 yes, when Congressman Duffy suggested that the

5 district could potentially take a more southern

6 approach.

7 Q And prior to this most recent redistricting

8 effort, the Seventh already was the largest of the

9 congressional districts; correct?

10 A Because there are so few people who live up here,

11 it is.

12 Q I understand that. But it was the largest

13 geographically --

14 A Right.

15 Q -- in square miles?

16 A Right.

17 Q Okay. And as a result of the recent

18 redistricting, it is now larger; correct?

19 A I don't know the exact scale, but my assumption

20 would be yes.

21 Q All right. Did you remove Portage County

22 from the Seventh Congressional District at

23 Congressman Duffy's request?

24 A Yes.

25 Q Okay. And that was because Congressman Duffy

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1 wanted to make the Seventh a more Republican

2 district?

3 A Correct.

4 (Discussion held off record)

5 MR. HASSETT: I have nothing

6 further. Thanks.

7 MS. LAZAR: We have no questions.

8 Thank you.

9 MR. SHRINER: Just one just for my

10 curiosity.

11

12 EXAMINATION

13 By Mr. Shriner:

14 Q Congresswoman Baldwin said she didn't want to

15 travel as far east as in the old district, is that

16 what you said?

17 A Correct.

18 Q The district -- The county she lost, Jefferson?

19 A Yes.

20 Q Was that the most Republican county in her old

21 district?

22 A Yes.

23 MR. SHRINER: All right. Nothing

24 else.

25 MR. BROWN: Nothing further from

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1 me.

2 MR. CAMPBELL: We are going off the

3 record. This concludes the video deposition

4 of Mr. Andrew Speth. The time is 3:00 p.m.

5 (Adjourning at 3:01 p.m.)

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VIDEOTAPE DEPOSITION OF ANDREW D. SPETH 1/17/2012

1 STATE OF WISCONSIN)
) ss.

2 COUNTY OF DANE)

3 I, PEGGY S. CHRISTENSEN, a Registered
4 Professional Reporter and Notary Public duly
5 commissioned and qualified in and for the State of
6 Wisconsin, do hereby certify that pursuant to
7 subpoena, there came before me on the 17th day of
8 January 2012, at 10:34 in the forenoon, at the
9 offices of Godfrey & Kahn, S.C., Attorneys at Law,
10 780 North Water Street, in the City of Milwaukee,
11 County of Milwaukee, and State of Wisconsin, the
12 following named person, to wit: ANDREW D. SPETH, who
13 was by me duly sworn to testify to the truth and
14 nothing but the truth of his knowledge touching and
15 concerning the matters in controversy in this cause;
16 that ANDREW D. SPETH was thereupon carefully examined
17 upon his oath and his examination reduced to
18 typewriting with computer-aided transcription; that
19 the videotape deposition is a true record of the
20 testimony given by the witness; and that reading and
21 signing was not waived.

22 I further certify that I am neither
23 attorney or counsel for, nor related to or employed
24 by any of the parties to the action in which this
25 deposition is taken and further that I am not a

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1 relative or employee of any attorney or counsel
2 employed by the parties hereto or financially
3 interested in the action.

4 In witness whereof I have hereunto set my
5 hand and affixed my notarial seal this 19th day of
6 January 2012.

7
8
9 Notary Public, State of Wisconsin
10 Registered Professional Reporter
11 Certified Realtime Reporter

11 My commission expires
12 August 19, 2012

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